Supreme Court, U.S.
FILED
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(4)

No. 94-251

In the Supreme Court of the United States

OCTOBER TERM, 1994

UNITED STATES, PETITIONER

v.

JUAN PAUL ROBERTSON, RESPONDENT

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

GLENN STEWART WARREN
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PETITION FOR WRIT OF CERTIORARI FILED AUGUST 10, 1994
CERTIORARI GRANTED OCTOBER 17, 1994

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Criminal Case No. 90-00925-01

UNITED STATES OF AMERICA, PLAINTIFF

v.

JUAN PAUL ROBERTSON, DEFENDANT

DOCKET ENTRIES

Date	PROCEEDINGS
10/04/90	Notice filed (Related to CR-87-0288-JLI.) (Dkt'd 10/12/90).
	Filed indictment (Indictment ordered sealed on 10/4/90. Unsealed on 10/5/90 by Magistrate McKee order.) (Dkt'd 10/12/90).
	Bail not allowed (Detained purs to 18:3142(d)—per G/J.) (MAG McKEE) (Dkt'd 10/12/90).
	Order bench warrant issued (per G/J) (MAG McKEE) (Dkt'd 10/12/90).
	Bench warrant issued (CLERK) (Dkt'd 10/12/90).
	Case assigned to JUDGE IRVING (Dkt'd 10/12/90).
10/05/90	Order filed (unsealing indictment) (MAG McKEE) (Dkt'd 10/12/90).
10/11/90	Appearance of WOOD, DAVID as attorney for defendant (MAG MOSKOWITZ) (Dkt'd 10/12/90).

Date	PROCEEDINGS
	Defendant appears with counsel (Purs to 18:3161 (c) (2)) (Dkt'd 10/12/90).
	Defendant's first appearance (MAG MOSKOWITZ) (Dkt'd 10/12/90).
	Bail not allowed (MAG McKEE) (Dkt'd 10/12/90).
	Detention hearing set for 10/16/90 @ 10:30 AM (before Mag McKee) (MAG MOSKOWITZ) (Dkt'd 10/12/90).
	Arraignment held (Counts 1-8) (MAG MOSKOWITZ) (Dkt'd 10/12/90).
	Defendant enters plea of not guilty (Counts 1-8) (MAG MOSKOWITZ) (Dkt'd 10/12/90).
	Motion and trial setting continued to 10/16/90 @ 10:30 AM (Counts 1-8) (before Judge Irving) (MAG MOSKOWITZ) (Dkt'd 10/12/90).
	—Mag Moskowitz recuses himself. (MAG MOSKOWITZ) (Dkt'd 07/03/91).
10/15/90	Minute sheet filed (atty David Wood relieved) (JUDGE IRVING) (Dkt'd 10/16/90).
	—Ct refers dft to Mag McKee for appt of new consl (JUDGE IRVING) (Dkt'd 10/16/90).
	Appearance of attorney FEDERAL-DEFENDERS, INC (MAG McKEE) (Dkt'd 10/16/90).
	Detention hearing reset to 10/16/90 @ 2:00 PM (Financial afdt w/b fld w/crt by 10/16/90 & may cont to 10/18/90 @ 10:30) (MAG McKEE) (Dkt'd 10/16/90).
	Motion and trial setting continued to 10/22/90 @ 9:00 AM (Counts 1-8) (for status) (JUDGE IRVING) (Dkt'd 10/16/90).
10/16/90	Detention hearing continued to 10/18/90 @ 10:30 AM (MAG McKEE) (Dkt'd 10/16/90).
10/18/90	Detention hearing held (MAG McKEE) (Dkt'd 10/23/90).
	Bail not allowed (flight risk & threats) (MAG McKEE) (Dkt'd 10/23/90).

Date	PROCEEDINGS
	—fld financial afdt under seal. Gvt to prepare order. (MAG McKEE, (Dkt'd 10/23/90).
	Bond (fld proffer of info from Judy Clarke in suppt of detention) (Dkt'd 10/23/90).
	Bond (fld financial afdt. Ord sealed & placed in vault by crt.) (MAG McKEE) (Dkt'd 10/23/90).
	Received documents transferred pursuant to Rule 40 from 0973-2 (Rcvd the following docs from Central District of Ca in Los Angeles: cc of magistrate's warrant of removal, cc of final commitment, cc of afdt re out of district warrant, cc of record of proceedings & cc of dkt sheet.) (Dkt'd 10/23/90).
10/22/90	Motion and trial setting hearing held (Counts 1-8) (JUDGE IRVING) (Dkt'd 10/23/90).
	Status hearing set for 10/26/90 @ 2:00 PM (JUDGE IRVING) (Dkt'd 10/23/90).
10/23/90	Filed bench warrant returned executed, executed on 10/11/90 (Dkt'd 10/23/90).
10/24/90	Bail not allowed (Fld findings of fact and ord of detention pending trial. Ent'd on 10/25/90.) (MAG McKEE) (Dkt'd 10/25/90).
10/26/90	Bond (Fld further proffer of info in suppt of request to grant conds of release.) (Dkt'd 11/06/90).
	Status hearing held (bail hrg—1st day Swore wits & fld exhbs) (JUDGE IRVING) (Dkt'd 11/06/90).
	Bail hearing set for 10/30/90 @ 9:00 AM (JUDGE IRVING) (Dkt'd 11/06/90).
10/29/90	—tape to be sealed, in camera—sealed. (MAG McKEE) (Dkt'd 11/06/90).
10/30/90	Bail hearing held (2nd day—wits & fld exhbs) (JUDGE IRVING) (Dkt'd 11/06/90).

Date	PROCEEDINGS
	Bail hearing continued to 10/31/90 @ 2:00 PM (JUDGE IRVING) (Dkt'd 11/06/90). —Declaration in camera—financial (sealed & placed in vault) (Dkt'd 07/03/91).
10/31/90	Bail hearing held (3rd day—Swore wits & fld exhbs) (JUDGE IRVING) (Dkt'd 11/06/90). Bail hearing continued to 11/01/90 @ 9:00 AM (JUDGE IRVING) (Dkt'd 11/06/90).
11/01/90	Bail hearing held (4th day —) (JUDGE IRVING (Dkt'd 11/06/90). Bail hearing continued to 11/05/90 @ 10:30 AM (JUDGE IRVING) (Dkt'd 11/06/90).
11/05/90	Bail hearing held (5th day—Swore wits) (JUDGE IRVING) (Dkt'd 11/14/90). Bail hearing continued to 11/07/90 @ 9:00 AM (JUDGE IRVING) (Dkt'd 11/14/90).
11/07/90	Bail hearing held (6th day—Swore wits & fld exhbs.) (JUDGE IRVING) (Dkt'd 11/15/90). Bail affirmed (affirmed the decision of Mag McKee —Ct to file findings of fact.) (JUDGE IRVING) (Dkt'd 11/15/90).
11/09/90	Bail not allowed (fld findings of fact and ord of detention pending trial. Ent'd on 11/27/90.) (JUDGE IRVING) (Dkt'd 11/27/90).
11/19/90	Order case reassigned to JUDGE TURRENTINE (Judge Irving recuses himself from this case and orders this case to be reassigned. Dft mot to reconsider detention ord to be reset by new judge.) (JUDGE IRVING) (Dkt'd 11/27/90).
11/20/90	Filed stipulation between the government and defendant (fld stipulated facts and agreement re case complex) (JUDGE IRVING) (Dkt'd 11/28/90).
11/21/90	—fld mot to shorten time (Dkt'd 11/28/90).

Date	PROCEEDINGS
	Order filed (to shorten time) (JUDGE IRVING) (Dkt'd 11/28/90). Motion filed (MOT #1) (for reconsideration of detention ord) (Dkt'd 11/28/90).
12/03/90	Order case reassigned to JUDGE NIELSEN (JUDGE TURRENTINE) (Dkt'd 12/05/90).
12/04/90	Motion by government filed (MOT #2) (for reciprocal discovery) (Dkt'd 12/06/90). Filed memorandum in support of motion by government (MOT #2) (t/w pts & auths) (Dkt'd 12/06/90).
12/10/90	Status hearing set for 01/02/91 @ 2:00 PM (JUDGE NIELSEN) (Dkt'd 12/16/90). Hearing on pre-trial motions set for 01/22/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 12/16/90). Cause continued for trial setting to 01/22/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 12/16/90). Motion hearing set for 12/19/90 @ 9:00 AM (MOT #1) (re mot to reconsider detention) (JUDGE NIELSEN) (Dkt'd 12/16/90).
12/12/90	—lodged ex parte appl for issuance of rule 17(b) subpoena and request for advance authorization of funds for witness (Dkt'd 12/16/90).
12/13/90	Order filed (for access to Law Library) (MAG McKee) (Dkt'd 12/16/90). Mark the beginning of a potential excludable period of type X-E starting on 11/21/90 ((In re MOTIONS/P on 11/21)) (Dkt'd 12/17/90).
12/18/90	—good cause appearing and on the crt's own mot —date of 1/2/91 is hereby vacated, and status hrg is re set for 1/3/91 @ 2:00 pm (JUDGE NIELSEN) (Dkt'd 12/27/90).

Date	PROCEEDINGS
12/19/90	Motion hearing held (MOT #1) (JUDGE NIELSEN) (Dkt'd 12/20/90). Motion granted (MOT #1) (JUDGE NIELSEN) (Dkt'd 12/20/90). Order personal appearance bail set in the amount of $500,000.00 (secured by property of mother and friends. Dft ord to have no contact with potential wits, Gvt may examine sureties.) (JUDGE NIELSEN) (Dkt'd 12/20/90). —crt orders case complex. (JUDGE NIELSEN) (Dkt'd 12/20/90). Mark the beginning of a potential excludable period of type X-T2 starting on 12/19/90 ((In re COMPLEX on 12/19)) (JUDGE NIELSEN) (Dkt'd 12/20/90). —fld dft's brief re detention hrg (Dkt'd 12/21/90).
01/03/91	Status hearing held (Eugene Iredale not able to appear generally at this time. Mot hrg date of 1/22/91 affirmed.) (JUDGE NIELSEN) (Dkt'd 01/90/91).
01/04/91	—fld mot to shorten time (Dkt'd 01/09/91). Order filed (to shorten time) (JUDGE NIELSEN) (Dkt'd 01/09/91). Motion filed (MOT #3) (to amend conds of release) (Dkt'd 01/09/91). —(MOT #3) (fld request to amend conds of release) (Dkt'd 01/09/91).
01/09/91	Order filed (fld appl for ord shortening time and ord thereon.) (JUDGE THOMPSON) (Dkt'd 01/15/91). Filed memorandum in opposiiton to motion (MOT #3) (t/w stmt of facts and argument) (Dkt'd 01/15/91).
01/10/91	—fld mot to shorten time (Dkt'd 01/15/91). Order filed (to shorten time) (JUDGE NIELSEN) (Dkt'd 01/15/91).

Date	PROCEEDINGS
	Motion for discovery/inspection filed (MOT #4) (Counts 1-8) (Dkt'd 01/15/91). Motion filed (MOT #5) (for leave to file addtnl mots) (Dkt'd 01/15/91). Filed memorandum in support of motion for discovery/inspection, and (MOT#s 4, 5) (t/w pts & auths) (Dkt'd 01/15/91). Motion denied (MOT #3) (denied at this time.) (JUDGE NIELSEN) (Dkt'd 01/18/91) Hearing set to 01/16/91 @ 8:30 AM (re mot to amend conds of release.) (JUDGE NIELSEN) (Dkt'd 01/18/91).
01/16/91	Hearing held (further hrg held—dft's mot to amend conds of release—denied.) (JUDGE NIELSEN) (Dkt'd 01/18/91).
01/18/91	Order filed (fld appl for ord shortening time and ord thereof.) (JUDGE NIELSEN (Dkt'd 01/24/91). Filed memorandum in opposition to motion for discovery/inspection, and (MOT#s 4, 5) (t/w pts & auths) (Dkt'd 01/24/91).
01/22/91	Hearing on pre-trial motions continued to 02/04/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 01/24/91). Cause continued for trial setting to 02/04/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 01/24/91).
02/04/91	Hearing on pre-trial motions continued to 02/11/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/05/91). Cause continued for trial setting to 02/11/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/05/91). Motion made in open court (MOT #6) (to be relieved as cnsl) (JUDGE NIELSEN) (Dkt'd 02/05/91).

Date	PROCEEDINGS
02/11/91	Hearing on pre-trial motions stricken 02/11/91 (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/19/91).
	Cause stricken for trial setting (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/19/91).
	Motion and trial setting continued to 02/19/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/19/91).
	Attorney FEDERAL-DEFENDERS, INC deleted from case (JUDGE NIELSEN) (Dkt'd 02/19/91).
	Order appointing attorney WILLIAMSON, WARREN R to represent defendant (ct appts atty purs to CJA Section that requires dft to reimburse gvt.) (JUDGE NIELSEN) (Dkt'd 02/19/91).
	Bail hearing set for 02/19/91 @ 2:00 PM (JUDGE NIELSEN) (Dkt'd 02/19/91).
	Filed CJA Form #20 copy #5 appointing WILLIAMSON, WARREN R as attorney for defendant (JUDGE NIELSEN) (Dkt'd 02/19/91).
02/19/91	Motion and trial hearing held (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/20/91).
	Hearing on pre-trial motions set for 04/29/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/20/91).
	Cause continued for trial setting to 04/29/91 @ 2:00 PM (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 02/20/91).
	Order filed (approving pymnt in excess of statutory maximum, interim pymnts for investigative services and sealing appls for pymnt) (JUDGE NIELSEN) (Dkt'd 02/20/91).
	Order filed (appting cnsl, a ord next) (JUDGE NIELSEN) (Dkt'd 02/20/91).

Date	PROCEEDINGS
02/21/91	—fld ex parte appl for services of law clerk/paralegal and request to seal appls for pymnt (Dkt'd 02/22/91).
02/27/91	Order filed (approving pymnt in excess of statutory maximum interim pymnts for law clerk/paralegal services and sealing appl for pymnt) (JUDGE NIELSEN) (Dkt'd 02/27/91).
03/04/91	Order filed (fld ord approving pymnt in excess of statutory maximum, interim pymnts for investigative services and sealing appls for pymnt t/w sig of Judge Harry Pregerson) (JUDGE NIELSEN) (Dkt'd 03/05/91).
	Order filed (7408 appt cnsl, authorizing interim pymnts in excess of maximum amt and sealing appls for pymnt t/w sig of Judge harry pregerson.) (Dkt'd 03/05/91).
03/15/91	Bail affirmed (Proposed surety Levona Jennings c/s/t) (JUDGE NIELSEN (Dkt'd 03/19/91).
03/18/91	Order filed (Ord approving payment in excess of statutory maximum interim payments for law clerk/paralegal services and sealing application for payment.) (JUDGE NIELSEN) (Dkt'd 03/19/91).
	Bail hearing held (Proposal surety Dick Jennings C/S/T. Defense to submit copy of Jennings Living Trust Documents.) (JUDGE NIELSEN) (Dkt'd 03/26/91).
03/19/91	Order filed (ExParte Application and order Re: Copies of documents from U.S. District Court Clerk, Based on Coutrs order appointing Warren Williamson counsel in the Crimnal Justice Act, It is authorized to provide copies from its files to Warren Williamson without charge.) (JUDGE NIELSEN) (Dkt'd 03/26/91).

Date	PROCEEDINGS
03/27/91	—Memorandum in support of request for bail (Dkt'd 07/09/91).
04/10/91	—Bail Memorandum and request for calendaring for release of defendant (JUDGE NIELSEN) (Dkt'd 04/11/91). —Declaration of Thomas Bryk (JUDGE NIELSEN) (Dkt'd 04/11/91). —Declaration of Kyle Bryk (JUDGE NIELSEN) (Dkt'd 04/11/91).
04/15/91	Order filed (Stipulation and order continuing pretrial motion hearings from 4-29-91 to 5-13-91) (JUDGE NIELSEN) (Dkt'd 04/19/91).
04/19/91	Bail hearing held (JUDGE NIELSEN) (Dkt'd 05/01/91). Order personal appearance bail set in the amount of $500,000.00 (t/w conds) (JUDGE NIELSEN) (Dkt'd 05/01/91). Filed personal appearance bond in the amount of $500,000.00 (JUDGE NIELSEN) (Dkt'd 05/01/91).
04/22/91	Hearing set to 04/25/91 @ 9:00 AM (Hearing re violation of conditions of release.) (JUDGE NIELSEN) (Dkt'd 05/02/91).
04/25/91	Hearing held (Ct awaits word from sureties before making a further order. Bond not in effect at this time.) (JUDGE NIELSEN) (Dkt'd 05/02/91). —Letter re: deft. ORDERED SEALED BY COURT. (Dkt'd 05/02/91). —Letter regarding defendnat sureties. (Dkt'd 05/06/91).
04/29/91	Removal hearing waived (Dkt'd 05/06/91). Order filed (Appointing counrsel, authorizing interim paymebnts in excess of maximum amount,

Date	PROCEEDINGS
	and sealing application for payment. U.S. Circuit Judge Harry Pregerson, signed this order.) (JUDGE NIELSEN) (Dkt'd 05/06/91). Motion for continuance filed (MOT#7) (Dkt'd 05/06/91). Motion filed (MOT#8) (for substitution of counsel.) (Dkt'd 05/06/91). Motion for discovery/inspection filed (MOT#9) (Counts 1-8) (Dkt'd for 05/06/91). Motion for severance/separate trial filed (MOT #10) (Counts 1-8) (to sever counts.) (Dkt'd 05/06/91). Motion to suppress evidence filed (MOT#11) (Counts 1-8) (sto suppress wiretap evidence.) (Dkt'd 05/06/91). Motion filed (MOT#12) (for personal voir dire and use of a juror questionnarie.) (Dkt'd 05/06/91). Motion filed (MOT#13) (for pretrial access to prosecution witnesses.) (Dkt'd 05/06/91). Motion filed (MOT#14) (for access to the jury list.) (Dkt'd 05/06/91). Motion filed (MOT#15) (to exclude hearsay.) (Dkt'd 05/06/91). Motion for continuance hearing set for 05/13/91 @ 2:00 PM (MOT#7) (Dkt'd 05/06/91). —(MOT#'s 7, 8, 9, 10, 11, 12, 13, 14, 15) (Table of contents and table of authorities.) (Dkt'd 05/06/91). Filed memorandum in support of motion for discovery/inspection, to suppress evidence, for severance/separate trial, for continuance, and (MOT#'s 7, 8, 9, 10, 11, 12, 13, 14, 15) (Dkt'd 05/06/91).
05/06/91	Filed memorandum in opposition to motion for discovery/inspection, to suppress evidence, for severance/separate trial, and (MOT#'s 9, 10, 11, 12, 13, 15) (Dkt'd 05/15/91).

Date	PROCEEDINGS
	Motion by government filed (MOT#16) (for reciprocal discovery) (Dkt'd 05/15/91).
05/08/91	Order filed (ord substituting counsel & appt counsel under CJA) (JUDGE NIELSEN) (Dkt'd 05/15/91).
	Attorney WARREN, GLENN STEWART added to case (effective 5/7/91 & present atty stays to 5/31/91 due to complex case) (JUDGE NIELSEN) (Dkt'd 05/15/91).
05/13/91	Hearing on pre-trial motions held 05/13/91 (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 05/15/91).
	Motion for severance/separate trial, and denied (MOT#'s 10, 14) (JUDGE NIELSEN) (Dkt'd 05/15/91).
	Motion and for discovery, inspection granted in part: denied in part (MOT#'s 4, 9) (Gov't to notify deft by 7/15/91 of telephone tape they intend to use) (JUDGE NIELSEN) (Dkt'd 05/15/91).
05/20/91	Bail not allowed (ct ord deft detained w/out bail, govt tp prepare ord) (JUDGE NIELSEN) (Dkt'd 05/22/91).
05/24/91	Bail not allowed (Fld findings of fact & order of detention pending trial.) (JUDGE NIELSEN) (Dkt'd 05/28/91).
06/12/91	Motion filed (MOT#17) (for reconsideration of detention order.) (Dkt'd 06/13/91).
	Filed memorandum in support of motion (MOT# 17) (t/w p's & a's) (Dkt'd 06/13/91).
	—(MOT#17) (fld declaration of counsel.) (Dkt'd 06/13/91).
	Motion hearing set for 06/17/91 @ 2:00 PM (MOT#17) (Dkt'd 06/13/91).
	—Declaration (sealed & placed in vault) (Dkt'd 07/03/91).

Date	PROCEEDINGS
06/17/91	Cause stricken for trial setting (Counts 1-8) (Dkt'd 06/19/91).
	Motion for continuance hearing stricken (MOT# 7) (Dkt'd 06/19/91).
	Motion hearing stricken (MOT#17) (Dkt'd 06/19/91).
	Bail hearing set for 07/01/91 @ 2:00 PM (JUDGE NIELSEN) (Dkt'd 06/19/91).
07/01/91	Bail hearing held (JUDGE NIELSEN) (Dkt'd 07/05/91).
	Motion denied (MO#17) (JUDGE NIELSEN) (Dkt'd 07/05/91).
	Order filed (Transcript of in camera interview ordered released. (per m/o)) (JUDGE NIELSEN) (Dkt'd 07/05/91).
	Minute sheet filed (Letter to Judge Nielsen re deft ordered sealed. To be opened only by the Ninth Circuit Court of appeals.) (JUDGE NIELSEN) (Dkt'd 07/05/91).
	—Recd letter from Monica Neshat re drug problem (Dkt'd 07/05/91).
	—Filed declaration from Tim Robertson, brother of deft (Dkt'd 07/05/91).
	—Filed declaration of James Denike, brother-in-law of deft (Dkt'd 07/05/91).
	--Recd letter from inmate re deft (Dkt'd 03/04/92).
	Filed notice of interlocutory appeal (APPL#1) (Re detention order of May 28, 1991 and denial of motion to reconsider entered 7/1/91) (Dkt'd 07/10/91).
	Mark the beginning of a potential excludable period of type X-D starting on 07/08/91 ((In re APIF on)) (Dkt'd 07/10/91).
	Filed designation for record on appeal (Re testimony of Monica Neshat, bail) (Dkt'd 07/10/91).

Date	PROCEEDINGS
07/09/91	Notice of interlocutory appeal and docket entries transmitted to U.S. Court of Appeals (APPL# 1) (T/W Case information sheet, docket fee payment notification form, Judgment/order, Minute Order, CJA form 20, substitution of atty) (Dkt'd 07/10/91).
	—Declaration in clarification of motion to reconsider detention order (Dkt'd 07/10/91).
07/10/91	—Ex parte application for order granting deft library access at the MCC (Dkt'd 07/11/91).
	Order filed (Order allowing deft access to library in MCC) (JUDGE NIELSEN) (Dkt'd 07/11/91).
07/11/91	Bond (Court orders deft released. He is to report in person or by phonse to P/T Services daily while out and is to report back to court when is trial is over.) (JUDGE NIELSEN) (Dkt'd 07/11/91).
	Order bail in the amount of $500,000.00 reinstated (Issd abst to USM) (JUDGE NIELSEN) (Dkt'd 07/11/91).
08/12/91	Order filed (ord signed by Circuit judge Harry Pregerson approving pmt in excess of stat max interim pmts for law clk/paralegal serv & seal app for pmt) (Dkt'd 08/13/91).
08/15/91	Order filed (ord motn date be cont to 10/7/91 @ 2pm and trial date be cont until 11/19/91 @ 2pm) (JUDGE NIELSEN) (Dkt'd 08/16/91).
	Stipulation filed (motn hrg date cont to 10/7/91 @ 2pm & tr date cont 11/19/91 @ 2pm) (Dkt'd 08/16/91).
	Hearing on pre-trial motions continued to 10/07/91 @ 2:00 PM (Counts 1-8) (Dkt'd 08/16/91).
	Trial date set for 11/19/91 @ 2:00 PM (Counts 1-8) (per order) (JUDGE NIELSEN) (Dkt'd 08/16/91).

Date	PROCEEDINGS
	Defendant acknowledgment (that he is required to appear at motn hrg & trial) (Dkt'd 08/16/91).
09/04/91	Minute sheet filed (Courts exhibits A, B, D, & F & court exht E, sealed 11/7/91 are unsealed for in camera review re discoverability as to case # 91 0082-B (BTM), resealed 9/4/91) (MAG MOSKOWITZ) (Dkt'd 09/06/91).
09/09/91	—Ex parte applic for funds for legal assist-ORD SEALED AND PLACED IN VAULT. (JUDGE NIELSEN) (Dkt'd 09/11/91).
	Order filed (FOR Ufor atty fees-ORD SEALED AND PLACED IN VAULT.) (JUDGE NIELSEN) (Dkt'd 09/11/91).
	—ex parte applic for appt of investigator, ORD SEALED AND PLACED IN VAULT. (JUDGE NIELSEN) (Dkt'd 09/11/91).
	Order filed (Ord for private investigator-ORD SEALED AND PLACED IN VAULT.) (JUDGE NIELSEN) (Dkt'd 09/11/91).
	—ex parte applic for expert services-ORD SEALED AND PLACED IN VAULT. (JUDGE NIELSEN) (Dkt'd 09/11/91).
	Order filed (for expert services-ORD SEALED AND PLACED IN VAULT.) (JUDGE NIELSEN) (Dkt'd 09/11/91).
09/26/91	—exparte application for ord shortening time to fld motions and leave tp file in excess of 25 pages (Dkt'd 09/26/91).
	—decl of atty (Dkt'd 09/26/91).
	Order filed (that deft may fld mtns in excess of 25 pages & that time is shorten for fld motions, AUSA will respond by noon 10/3/91) (JUDGE KEEP) (Dkt'd 09/26/91).
	Motion to dismiss filed (MOT#18) (Counts 1-8) (ct 6-as unconstitutionally vague) (Dkt'd 09/26/91).

Date	PROCEEDINGS
	Motion to dismiss filed (MOT#19) (Count 6) (as it fails to allege a pattern of recketeering activity) (Dkt'd 09/26/91).
	Motion to dismiss filed (MOT#20) (Count 6) (because it fails to allege continuity plus relationship) (Dkt'd 09/26/91).
	Motion to dismiss filed (MOT#21) (Count 6) (because venue is improper in Southern Distr of CA) (Dkt'd 09/26/91).
	Motion filed (MOT#22) (to strike paragraphs 2 & 3 of ct 6) (Dkt'd 09/26/91).
	Motion to dismiss filed (MOT#23) (Counts 1-8) (to dism racketeering act 6 as duplicitious or compel govt to make an election) (Dkt'd 09/26/91).
	Motion to dismiss filed (MOT#24) (Counts 1-8) (to dism racketeering act 6 or strike any reference to one 1979 Cadillac sedan de Ville automobile) (Dkt 09/26/91).
	Motion filed (MOT#25) (to strike racketeering acts 10 & 11) (Dkt'd 09/26/91).
	Motion to suppress evidence filed (MOT#26) (Counts 1-8) (drug ledgers) (Dkt'd 09/26/91).
	Motion for a bill of particulars filed (MOT#27) (Counts 1-8) (Dkt'd 09/26/91).
	Motion filed (MOT#28) (for witness list) (Dkt'd 09/26/91).
	Motion to suppress evidence filed (MOT#29) (Counts 1-8) (wire tap evidence) (Dkt'd 09/26/91).
	Motion to dismiss filed (MOT#30) (Counts 1-8) (based upon prosecutorial misconduct) (Dkt'd 09/26/91).
	Motion filed (MOT#31) (lv to file fur mot) (Dkt'd 09/26/91).
	Memorandum in support of motion for a bill of particulars, to dismiss, to suppress evidence, and (MOT#'s 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31) (Dkt'd 09/26/91).

Date	PROCEEDINGS
10/03/91	Order filed (per app for order shortening time & order thereon to file motions & response for Govt) (JUDGE NIELSEN) (Dkt'd 10/04/91).
	Order filed (per motion for leave to file memo in excess of 25 pgs & order thereon to allow Govt memo be recd & filed w/clerk's office) (JUDGE NIELSEN) (Dkt'd 10/04/91).
	Filed memorandum in opposition to motion for a bill of particulars, to dismiss, to suppress evidence, and (MOT#'s, 5, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30) (t/w stmt of facts & memo of P's & A's) (Dkt'd 10/04/91).
10/07/91	Hearing on pre-trial motions held 10/07/91 (Counts 1-8) (JUDGE NIELSEN) (Dkt'd 10/08/91).
	Hearing on pre-trial motions continued to 11/18/91 @ 2:00 PM (Counts 1-8) (for any additional motions that are filed) (JUDGE NIELSEN) (Dkt'd 10/08/91).
	Motion for a bill of particulars, to dismiss, to suppress evidence, for continuance, and denied (MOT#'s 5, 7, 8, 11, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31) (JUDGE NIELSEN) (Dkt'd 10/08/91).
10/16/91	Order filed (re fees, ord for sealing of decl & ord) (JUDGE NIELSEN) (Dkt'd 10/1/91).
	—Declaration (Dkt'd 10/21/91).
10/17/91	Filed superseding indictment (Dkt'd 10/21/91).
10/22/91	—Waiver signed by deft re s/s indi being filed & being tried in less than 30 days after initial appearance. Trial date will stand for 11/19/91 (Dkt'd 10/23/91).
10/23/91	Petition for writ of habeas corpus ad testificandum (JUDGE KEEP) (Dkt'd 10/24/91).
	Issued writ of habeas corpus ad testificandum (Dkt'd 10/24/91).

Date	PROCEEDINGS
11/01/91	—Ex-parte app for order directing INS to comply (ordered sealed & placed in vault) (Dkt'd 11/04/91).
	Order filed (order (sealed & placed in vault)) (MAG McKEE) (Dkt 11/04/91).
	—ex-parte app for order directing Maricopa County atty to comply (sealed & placed in vault) (Dkt'd 11/04/91).
	Order filed (order (sealed & placed in vault)) (MAG McKEE) (Dkt'd 11/04/91).
11/04/91	—ex-parte application for order granting funds, declaration (sealed & placed in vault) (Dkt'd 11/05/91).
	Order filed (ord granting funds (sealed & placed in vault)) (JUDGE NIELSEN) (Dkt'd 11/05/91).
	Arraignment held (Counts S1-S8) (JUDGE NIELSEN) (Dkt'd 01/24/92).
	Defendant enters plea of not guilty (Counts S1-S8) (JUDGE NIELSEN) (Dkt'd 01/24/92).
	Motion made in open court to suppress evidence (MOT#32) (Counts 1-8, S1-S8) (JUDGE NIELSEN) (Dkt'd 11/08/91).
	Motion to suppress evidence denied (MOT#32) (JUDGE NIELSEN) (Dkt'd 11/08/91).
	Motion made in open court for continuance (MOT #33) (JUDGE NIELSEN) (Dkt'd 11/08/91).
	Motion for continuance taken under advisement (MOT#33) (under submission) (JUDGE NIELSEN) (Dkt'd 11/08/91).
	Order of excludable delay began on 12/19/90 and ended on 11/04/91 (Dkt'd 11/08/91).
	—Fld declaration of counsel (Dkt'd 03/04/92).
11/12/91	Hearing on pre-trial motions stricken 11/12/91 (Counts 1-8) (Dkt'd 01/24/92).
	Trial date stricken (Counts 1-8) (Dkt'd 01/24/92).

Date	PROCEEDINGS
	Trial date set for 01/22/92 @9:00 AM (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (JUDGE NIELSEN) (Dkt'd 01/24/92).
11/27/91	—ex-parte app for order authorizing interim payments (sealed & placed in vault) (Dkt'd 12/06/91).
	Order filed ((sealed & placed in vault)) (JUDGE NIELSEN) (Dkt'd 12/06/91).
	—declaration (sealed & placed in vault) (Dkt'd 12/06/91).
	—exparte app for order re interim payments (sealed & placed in vault) (Dkt'd 12/06/91).
	Order filed ((sealed & placed in Vault)) (JUDGE NIELSEN) (Dkt'd 12/06/91).
	—declaration (sealed & placed in vault) (Dkt'd 12/06/01).
	—ex-parte app re expert witness funds (sealed & placed in vault) (Dkt'd 12/06/91).
	Order filed (sealed & placed in vault)) (JUDGE NIELSEN) (Dkt'd 12/06/91).
	—declaration in support of ex-parte app re expert (sealed & placed in vault) (Dkt'd 12/06/91).
12/04/91	—ex-parte app for funds for expert witness (sealed & placed in vault) (Dkt'd 12/09/91).
	—Declaration (sealed & placed in vault) (Dkt'd 12/09/91).
	Order filed (sealed & placed in vault)) (JUDGE NIELSEN) (Dkt'd 12/09/91).
	—ex-parte app for funds for expert witness (sealed & placed in vault) (Dkt'd 12/09/91).
	—Declaration (sealed & placed in vault) (Dkt'd 12/09/91).
	Order filed ((sealed & Placed in vault)) (JUDGE NIELSEN) (Dkt'd 12/09/91).
	—ex-parte app for interim payments to investigators (sealed & placed in vault) (Dkt'd 12/09/91).

Date	PROCEEDINGS
	—Declaration (sealed & placed in vault) (Dkt'd 12/09/91).
	Order filed ((sealed & placed vault)) (JUDGE NIELSEN) (Dkt'd 12/09/91).
01/03/92	—Ex-parte app for funds for Aero-Services (Dkt'd 01/06/92).
	Filed affidavit (Declaration of atty Glenn Warren) (Dkt'd 01/06/92).
	Order filed (ord that $140.00 be authorized to be paid to Aero-Services) (JUDGE NIELSEN) (Dkt'd 01/06/92).
01/06/92	Order filed (Ord signed by U.S. Circuit Judge Harry Pregerson re fees to be paid (sealed & placed in vault)) (Dkt'd 01/06/92).
	Order filed (Ord signed by U.S. Circuit Judge re interim payments) (Dkt'd 01/06/92).
01/13/92	—Ex-parte app for expert witness funds (sealed & placed in vault) (Dkt'd 01/21/92).
	—Filed declaration (sealed & placed in vault) (Dkt'd 01/21/92).
	Order filed ((sealed & placed in vault) re fees) (JUDGE NIELSEN) (Dkt'd 01/21/92).
	—filed declaration (sealed & placed in vault) (Dkt'd 01/21/92).
	—Filed declaration (sealed & placed in vault) (Dkt'd 01/21/92).
	Order filed (re assitance (sealed & placed in vault)) (JUDGE NIELSEN) (Dkt'd 01/21/92).
	Order filed (per ex parte app for investigative funds, denied) (JUDGE NIELSEN) (Dkt'd 01/21/92).
01/16/92	—Ex-parte app for addtl funds (Dkt'd 01/24/92).
	Filed affidavit (Declaration of atty Glenn Warren (sealed & placed in vault)) (Dkt'd 01/24/92).
	Order filed (Ord re addtl funds (sealed & placed in vault)) (Dkt'd 01/24/92).

Date	PROCEEDINGS
	Filed trial memorandum (Counts 1-8, S1-S8) (Filed by Govt) (Dkt'd 01/16/92).
01/21/92	Motion in limine filed (MOT #34) (Counts 1-8, S1-S8) (Deft's motion to strike racketeering acts 8 through 11 as irrelevant t/w memo of P's & A's in support) (Dkt'd 01/23/92).
	Motion in limine filed (MOT #35) (Counts 1-8, S1-S8) (Deft's motion to exclude evidence of drug ledgers t/w memo of P's & A's in support) (Dkt'd 01/23/92).
	Motion in limine filed (MOT #36) (Counts 1-8, S1-S8) (Deft's motion to exclude reference to deft's alleged drug use t/w memo of P's & A's in support) (Dkt'd 01/23/92).
	Motion in limine filed (MOT #37) (Counts 1-8, S1-S8) (Deft's motion to exclude testimony of Eddra McCarthy re death of Marco Guarderas t/w memo of P's & A's in support) (Dkt'd 01/23/92).
	Motion for continuance denied (MOT #33) (JUDGE NIELSEN) (Dkt'd 01/23/92).
	Motion in limine granted (MOT #37) (JUDGE NIELSEN) (Dkt'd 01/23/92)
	Motion in limine denied (MOT #34) (JUDGE NIELSEN) (Dkt'd 01/23/92)
	Motion in limine denied (MOT #36) (JUDGE NIELSEN) (Dkt'd 01/23/92)
	Motion in limine denied (MOT #35) (JUDGE NIELSEN) (Dkt'd 01/23/92)
01/22/92	Motion in limine filed (MOT #38) (Counts 1-8, S1-S8) (to exclude or limit the testimony of Guarderas family) (Dkt'd 01/23/92).
	Filed memorandum in support of motion in limine (MOT #38) (memo of P's & A's) (Dkt'd 01/23/92).
	Voire dire begins-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (JUDGE NIELSEN) (Dkt'd 01/24/92).

Date	PROCEEDINGS
	Jury impaneled (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (and sworn) (JUDGE NIELSEN) (Dkt'd 01/24/92).
	Trial begins-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (JUDGE NIELSEN) (Dkt'd 01/24/92).
	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (1st day, swore witness, filed exhibits) (JUDGE NIELSEN) (Dkt'd 01/24/92).
	Jury trial continued to 01/23/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 01/24/92).
	—ex parte request app for expert witness funds t/w decl, denied 1/16/92 by Judge Neilsen (JUDGE NIELSEN) (Dkt'd 01/27/92).
01/23/92	Trial held-jury (Count 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (2nd day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 01/24/92).
	Jury trial continued to 01/24/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 01/24/92).
01/24/92	—Application for ex-parte order to disclose returns and return information (Dkt'd 01/27/92).
	Order filed (Order for disclosure of returns & return information) (JUDGE NIELSEN) (Dkt'd 01/27/92).
	—(MOT #34) (Govt's response & opp to deft's motion in limine) (Dkt'd 01/27/92).
	—(MOT #35) Govt's response & opposition) (Dkt'd 01/27/92).
	—(MOT #36) (Govt's response & opposition to deft's motion) (Dkt'd 1/27/92).
	—(MOT #37) (Govt's response & opposition to deft's motion) (Dkt'd 1/27/92).
	—(MOT #38) (Govt's response & opposition to deft's motions) (Dkt'd 01/27/92).

Date	PROCEEDINGS
	Order filed (Recd order from USCA by Chief Judge Wallace re emergency motion for continuance, petition is ordered filed without prepayment of fees and hereby denied) (Dkt'd 01/27/92).
	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (3rd day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 01/27/92).
	Motion made in open court for new trial (MOT #39) (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (JUDGE NIELSEN) (Dkt'd 01/27/92).
	Motion for new trial denied (MOT #39) (JUDGE NIELSEN) (Dkt'd 01/27/92).
	Jury trial continued to 01/28/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 01/27/92).
01/27/92	Motion in limine denied (MOT #38) (JUDGE NIELSEN (Dkt'd 01/27/92).
	—(MOT #38) (Memo of P's & A's in support of motion) (Dkt'd 01/27/92).
	Filed petition for writ of habeas corpus ad testificandum (ex-parte app for writ of hc ad testificandum) (Dkt'd 01/28/92).
	Filed affidavit (Declaration of atty Glenn Stewart Warren) (Dkt'd 01/28/92).
	Order filed (that a writ be issued for writ of HC for Wayne Countryman for testimony) (JUDGE NIELSEN) (Dkt'd 01/28/92).
	Issued writ of habeas corpus ad prosequendum (CLERK) (Dkt'd 01/28/92).
01/28/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (4th day, swore witnesses, filed exhibits (JUDGE NIELSEN) (Dkt'd 01/29/92).
	Jury trial continued to 01/29/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 01/29/92).

Date	PROCEEDINGS
01/29/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (5th day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 01/30/92).
	Jury trial continued to 01/30/92 @ 1:30 PM (JUDGE NIELSEN (Dkt'd 01/30/92).
	Order filed (to unseal wiretap tapes & pen registers t/w afdt in support of order to unseal tapes & registers) (JUDGE NIELSEN) (Dkt'd 01/30/92).
	—Letter to John Trasher (sealed & placed in vault) (Dkt'd 01/30/92).
	—Letter to John Trasher (sealed & placed in vault) (Dkt'd 01/30/92).
01/30/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (sixth day, swore witness, filed exhibits) (JUDGE NIELSON) (Dkt'd 01/31/92).
	Jury trial continued to 01/31/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 01/31/92).
01/31/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Seventh day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 02/03/92).
	Jury trial continued to 02/04/92 (JUDGE NIELSEN) (Dkt'd 02/093/92).
02/03/92	Motion in limine filed (MOT #40) (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (motion to permit testimony of DEA agent Al Devetko re Garcia-Countryman case) (Dkt'd 02/04/92).
	Filed memorandum in support of motion in limine (MOT #40) (memo of P's & A's) (Dkt'd 02/04/92).

Date	PROCEEDINGS
02/04/92	Motion made in open court for mistrial (MOT #41) (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Deft's oral motion to exclude witness Dulong or, in the alternative for mistrial) (JUDGE NIELSEN) (Dkt'd 02/05/92).
	Motion for mistrial denied (MOT #41) (JUDGE NIELSEN) (Dkt'd 02/05/92).
	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Eighth day, swore witnesses, file exhibits) (JUDGE NIELSEN) (Dkt'd 02/05/92).
	Jury trial continued to 02/05/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/05/92).
02/05/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Ninth day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 02/06/92.
	Jury trial continued to 02/06/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/06/92).
02/06/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Tenth day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 02/07/92).
	Motion made in open court for judgment of acquittal (MOT #42) (Count 8) (for rule 29, under submission as to ct 8) (JUDGE NIELSEN) (Dkt'd 02/07/92).
	Motion made in open court for judgment of acquittal (MOT #43) (Counts 1-7, S1-S7) (for rule 29) (JUDGE NIELSEN) (Dkt'd 02/07/92).
	Motion for judgment of acquittal denied (MOT #43) (denied as to all other counts) (JUDGE NIELSEN) (Dkt'd 02/07/92).
	Motion in limine denied (MOT #40) (JUDGE NIELSEN) (Dkt'd 02/07/92).

Date	PROCEEDINGS
	Jury trial continued to 02/07/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/07/92).
	Order filed (Ord signed by USCA Judge Harry Pregerson re assist in prep of deft's case & ord to seal (sealed & placed in vault)) (Dkt'd 02/10/92).
	Order filed (ord re interim payments signed to USCA Judge Harry Pregerson (sealed & placed in vault)) (Dkt'd 02/10/92).
	Order filed (ord signed by USCA Judge Harry Pregerson re addtl pmts be authorized (sealed & placed in vault)) (Dkt'd 02/10/92).
02/07/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Eleventh day, jury trial) (JUDGE NIELSEN) (Dkt'd 02/10/92).
	Jury trial continued to 02/11/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/10/92).
02/11/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Twelfth day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 02/12/92).
	Jury trial continued to 02/12/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/12/92).
02/12/92	Motion made in open court for mistrial (MOT #44) (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (JUDGE NIELSEN) (Dkt'd 02/13/92).
	Motion for mistrial denied (MOT #44) (JUDGE NIELSEN) (Dkt'd 02/13/92).
	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Thirteenth day, swore witnesses, filed exhibits) (JUDGE NIELSEN) (Dkt'd 02/13/92).
	Jury trial continued to 02/13/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/13/92).

Date	PROCEEDINGS
	—(MOT #3) (memorandum & P's & A's in opposition to deft's rule 29 motion) (Dkt'd 02/13/92).
	Order filed (ord that Carol Henderson be permitted to view all sealed docs, including orders for purpose of determining what monies have been authorized under CJA to pay witnesses, experts & investigators) (JUDGE NIELSEN) (Dkt'd 02/13/92).
	Filed government's proposed jury instructions (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (Dkt'd 02-13/92).
02/13/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (14th day, swore witnesses, filed exhibits, closing arguments, jury retires to begin deliberations) (JUDGE NIELSEN) (Dkt'd 02/18/92).
	Jury trial continued to 02/14/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/18/92).
	Order filed (ord re reimbursement for witnesses & related expenses) (MAG McKEE) (Dkt'd 02/18/92).
02/14/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (15th day, jury sequestered for lunch) (JUDGE NIELSEN) (Dkt'd 02/18/92).
	Jury trial continued to 02/18/92 @ 9:00 AM (JUDGE NIELSEN) (Dkt'd 02/18/92).
02/18/92	Trial held-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (JUDGE NIELSEN) (Dkt'd 02/19/92).
	Trial ends-jury (Counts 1, 2-4, 5, 6, 7, 8, S1, S2, S3, S4, S5, S6, S7, S8) (jury polled, jury retires at 3:55pm on 2/13/92 and returns at 2:50 pm on 2/18/92 jury ord meals at Gov exp while deliberating) (JUDGE NIELSEN) (Dkt'd 02/19/92).

Date	PROCEEDINGS
	Jury verdict of not guilty (Counts S5, S8) (jury polled) (Dkt'd 02/19/92).
	Jury verdict of guilty (Counts S1-S4, S6) (jury polled) (Dkt'd 02/19/92).
	Bond exonerated (deft remanded to cust) (JUDGE NIELSEN) (Dkt'd 02/19/92).
	Order cause referred to the probation department for a pre-sentence investigation (Counts S1-S4, S6) (JUDGE NIELSEN) (Dkt'd 02/19/92).
	Sentencing set for 06/01/92 @ 9:00 AM (Counts S1-4, S6) (Count 7 remains pending until 6/1/92) (JUDGE NIELSEN) (Dkt'd 02/19/92).
	Motion for judgment of acquittal mooted (MOT #42) (re count 8) (JUDGE NIELSEN) (Dkt'd 02/19/92).
	—declaration of counsel, Glenn Warren re subpoena's for Chase Bank (Dkt'd 02/02/92).
	Order filed (ord that $2315.60 be authorized for Chase Bank for compliance w/subpoena issd on behalf of deft) (JUDGE NIELSEN) (Dkt'd 03/02/92).
02/19/92	Filed judgment of discharge (Counts S5, S8) (entered 2/19/92) (JUDGE NIELSEN) (Dkt'd 02/19/92).

[Filed Oct. 17, 1991]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
May 1990 Grand Jury

Criminal Case No. 90-0925-N

UNITED STATES OF AMERICA, PLAINTIFF

v.

JUAN PAUL ROBERTSON, DEFENDANT

INDICTMENT
(Superseding)

Title 21, U.S.C., Secs. 846 and 841(a)(1)—Conspiracy to Possess a Controlled Substance with Intent to Distribute; Title 21, U.S.C., Sec. 841(a)(1)—Possession of a Controlled Substance with Intent to Distribute; Title 21, U.S.C., Sec. 843(b)—Unlawful Use of a Communication Facility; Title 18, U.S.C., Sec. 1962(a)—Racketeering Influenced Corrupt Organization; Title 18, U.S.C., Sec. 1963(a)(1), (2), and (3)—Forfeiture; Title 21, U.S.C., Sec. 848—Continuing Criminal Enterprise; Title 18, U.S.C., Sec. 2—Aiding and Abetting

The grand jury charges:

Count 1

Beginning at a date unknown to the grand jury and continuing up to and including November 5, 1987, within the Southern District of California, and elsewhere, de-

fendant JUAN PAUL ROBERTSON did knowingly and intentionally combine, conspire and agree with Dean Edward Stephens, Sandra Lynn Stephens, Phillip Duane Rushin, Edward John Studebaker, Elizabeth T. Grove, Edwin Andrew Dickson, Floyd Lee Robertson, Jose Antonio Maldonado, Eduardo Rodriguez-Bonilla and Oscar Giron, not charged herein, and with divers other persons known and unknown to the grand jury to violate the laws of the United States, to wit, to knowingly and intentionally possess with intent to distribute cocaine, a Schedule II Controlled Substance; in violation of Title 21, United States Code, Section 841(a)(1).

OVERT ACTS

In furtherance of said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed within the Southern District of California, and elsewhere:

1. In or about June 1986, defendant JUAN PAUL ROBERTSON met with Jose Antonio Maldonado and discussed the processing of unrefined cocaine.

2. Several weeks after the discussion referred to in Overt Act 1, defendant JUAN PAUL ROBERTSON discussed this subject again with Jose Antonio Maldonado.

2. In or about October 1986, defendant JUAN PAUL ROBERTSON met with Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla, not charged herein, and discussed the sale of several kilograms of cocaine.

3. On or about November 1, 1986, defendant JUAN PAUL ROBERTSON discussed with Dean Edward Stephens the need to obtain a

chemist capable of converting coca paste to cocaine in order to maximize drug profits.

4. On or about November 27, 1986, defendant JUAN PAUL ROBERTSON received delivery of two kilograms of cocaine from Jose Antonio Maldonado, Eduardo Rodriguez-Bonilla and Oscar Giron, at 10880 Wilshire Boulevard in Los Angeles, California.

5. On or about November 27, 1986, defendant JUAN PAUL ROBERTSON delivered two kilograms of cocaine to Dean Edward Stephens and Sandra Lynn Stephens at 10880 Wilshire Boulevard in Los Angeles, California.

6. On or about November 27, 1986, Cheryl Ledford met with Dean Edward Stephens and Sandra Lynn Stephens in Dana Point, California, and discussed the purchase and sale of large quantities of cocaine.

7. On or about December 15, 1986, Oscar Giron received partial payment from defendant JUAN PAUL ROBERTSON for two kilograms of cocaine earlier delivered to defendant JUAN PAUL ROBERTSON on or about November 27, 1986, in Los Angeles, California.

8. On or about December 19, 1986, Dean Edward Stephens obtained a multi-kilogram quantity of cocaine from defendant JUAN PAUL ROBERTSON in Los Angeles, California.

9. On or about December 21, 1986, Cheryl Ledford bought one kilogram of cocaine from Dean Edward Stephens for $25,000.

10. On or about January 1, 1987, Jose Antonio Maldonado delivered a two-ounce sample of cocaine to defendant JUAN PAUL ROBERTSON

in Los Angeles, California, as a sample of the type of cocaine which Jose Antonio Maldonado could supply to defendant JUAN PAUL ROBERTSON in the future.

11. On or about January 17, 1987, at approximately 12:27 p.m., Phillip Duane Rushin and Edward John Studebaker, discussed the sale of a kilogram quantity of cocaine.

12. On or about January 21, 1987, at approximately 8:05 a.m., Elizabeth T. Grove telephoned Dean Edward Stephens and advised him she needed what they had earlier discussed.

13. On or about January 21, 1987, defendant JUAN PAUL ROBERTSON delivered to Dean Edward Stephens, previously indicted, approximately one kilogram of cocaine in Los Angeles, California.

14. On or about January 21, 1987, Dean Edward Stephens telephoned Elizabeth T. Grove and assured her she could make her trip.

15. On or about January 21, 1987, at approximately 8:42 p.m., Elizabeth T. Grove placed a phone call to 303-923-4310.

16. On or about January 22, 1987, at approximately 7:42 a.m., Elizabeth T. Grove telephoned Edward John Studebaker and negotiated with him the price of a kilogram of cocaine and discussed her travel itinerary.

17. On or about January 22, 1987, at approximately 10:44 a.m., Elizabeth T. Grove telephoned the residence of Dean Edward Stephens and Sandra Lynn Stephens and stated she was on her way over.

18. On or about January 22, 1987, Elizabeth T. Grove, Phillip Duane Rushin, Sandra Lynn

Stephens and Dean Edward Stephens possessed approximately 1,010.8 grams of cocaine with intent to distribute.

19. On or about January 22, 1987, Elizabeth T. Grove traveled from her residence to 17204 La Brisa, Rancho Santa Fe, California, immediately prior to leaving for Grand Junction Colorado.

20. On or between January 22 and January 23, 1987, Elizabeth T. Grove traveled from California to Colorado with approximately 1,010.8 grams of cocaine with intent to distribute.

21. On or about January 23 1987, Elizabeth T. Grove left Grand Junction Colorado, en route to the residence of Edward John Studebaker to deliver one kilogram of cocaine.

22. On or about January 23, 1987, Dean Edward Stephens telephoned defendant JUAN PAUL ROBERTSON to advise defendant JUAN PAUL ROBERTSON of the arrest of cocaine runner Elizabeth T. Grove.

23. On or about January 28 1987, defendant JUAN PAUL ROBERTSON received delivery of approximately three kilograms of cocaine from Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla in Los Angeles, California.

24. On or about January 28, 1987, Dean Edward Stephens purchased two kilograms of cocaine from defendant JUAN PAUL ROBERTSON in Los Angeles California.

25. On or about January 30, 1987, Dean Edward Stephens delivered 1/4 pound of cocaine to Cheryl Ledford at 17204 La Brisa, Rancho Santa Fe, California, which was part of a two-kilogram purchase earlier obtained from defendant JUAN PAUL ROBERTSON.

26. From on or about February 17, 1987, to on or about February 20, 1987, Elizabeth T. Grove, Phillip Duane Rushin, Dean Edward Stephens, Sandra Lynn Stephens, Edwin Andrew Dickson, and Floyd Lee Robertson had a series of conversations where efforts were made to recover from a financial loss by additional sales of narcotics.

27. On or about February 25 1987, defendant JUAN PAUL ROBERTSON had a telephone conversation with Dean Edward Stephens wherein defendant ROBERTSON requested payment in full for cocaine he had supplied to Dean Edward Stephens that week.

28. On or about March 1, 1987, Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla met with defendant JUAN PAUL ROBERTSON in Los Angeles, California, at which time defendant JUAN PAUL ROBERTSON requested a delay in payment for cocaine earlier fronted to him (ROBERTSON), because some of "his people" in San Diego, California, had been arrested.

29. On or about March 1, 1987, defendant JUAN PAUL ROBERTSON, instructed Eduardo Rodriguez-Bonilla and Jose Antonio Maldonado to limit their cocaine transactions to five kilograms or less, to fall within Federal guidelines in the event they were arrested.

30. On or about March 4, 1987, Floyd Lee Robertson talked on the telephone with Sandra Lynn Stephens about payment for a narcotics transaction.

31. On or about March 5, 1987, defendant JUAN PAUL ROBERTSON delivered approximately

four kilograms of cocaine to Dean Edward Stephens in Los Angeles, California.

All in violation of Title 21, United States Code, Section 846.

Count 2

On or about December 21, 1986, within the Southern District of California, Dean Edward Stephens and Sandra Lynn Stephens did knowingly and intentionally distribute approximately one kilogram of cocaine, a Schedule II Controlled Substance, and defendant JUAN PAUL ROBERTSON did knowingly and intentionally aid, abet, counsel, command and procedure the commission of the aforesaid offense; in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

Count 3

On or about January 22, 1987, within the Southern District of California, Dean Edward Stephens, Sandra Lynn Stephens, and Elizabeth T. Grove along with Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla did knowingly and intentionally possess, with intent to distribute, approximately 1,010.8 grams of cocaine, a Schedule II Controlled Substance, and defendant JUAN PAUL ROBERTSON did knowingly and intentionally aid, abet, counsel, command and procure the commission of the aforesaid offense; in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

Count 4

On or about January 30, 1987, within the Southern District of California, Dean Edward Stephens and Sandra Lynn Stephens did knowingly and intentionally distribute several ounces of cocaine, a Schedule II Controlled Substance, and defendant JUAN PAUL ROBERTSON did

knowingly and intentionally aid, abet, counsel, command and procure the commission of the aforesaid offense; in violation of Title 21, United States Code, Section 841 (a)(1), and Title 18, United States Code, Section 2.

Count 5

On or about February 25, 1987, within the Southern District of California, at approximately 8:38 p.m., defendant JUAN PAUL ROBERTSON did knowingly and intentionally use a communication facility, namely, a telephone, in committing and in causing and facilitating the commission of controlled substance offenses in violation of Title 21, United States Code, Sections 846 and 841 (a)(1), that is, distribution of and possession with intent to distribute a controlled substance, and conspiracy to do so; in violation of Title 21, United States Code, Section 843(b).

Count 6

I

Introduction

1. From in or about April 1985, and continuing up to and including April 1988, Double Eagle Mining Company, Circle Hot Springs, Alaska, which was a partnership formed in principle in April 1985, legally formalized on June 20, 1985, and dissolved on July 31, 1985, and Robertson Mining Company, Circle Hot Springs, Alaska, a sole proprietorship of defendant JUAN PAUL ROBERTSON, constituted an enterprise, as that term is defined in Title 18, United States Code, Section 1961(4), which was engaged in, and the activities of which affected, interstate and foreign commerce.

2. At all times material to this indictment, defendant JUAN PAUL ROBERTSON was an attorney licensed to practice law in the State of California.

3. At various times beginning in 1980 and continuing up to and including the date of this indictment, defendant JUAN PAUL ROBERTSON maintained law offices at various locations in Los Angeles and Santa Monica, California, and was engaged primarily in defending persons accused of crimes.

II

Allegations

4. From in or about April 1985, and continuing up to and including November 1987, defendant JUAN PAUL ROBERTSON, having received income derived, directly and indirectly, from a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Section 1961(5), unlawfully and knowingly did, directly and indirectly, use and invest a part of such income and the proceeds derived from such income, in acquisition of and interest in, and the establishment and operation of, an enterprise which was engaged in and whose activities affected interstate and foreign commerce.

5. The pattern of racketeering activity committed by the defendant consisted of racketeering acts 1 through 5, which are acts charged in counts 1 through 5 of this indictment, and which are realleged and incorporated by reference herein, and racketeering acts 6 through 11 set forth below in subparagraphs 5(a)-5(f):

Racketeering Acts

The pattern of said racketeering activity committed by the defendant JUAN PAUL ROBERTSON consisted of multiple acts of illegal distribution of controlled substances as alleged in Counts 1 through 5 of this indictment and paragraphs 5a through 5f as enumerated below, in violation of Title 21, United States Code, Sections 841(a)(1) and 846, and Title 18, United States Code, Sections 2514 and 956.

Racketeering Act 6:

a. From on or about November 15, 1983, to on or about April 1985, within the Central District of California, the District of Arizona, and elsewhere, defendant JUAN PAUL ROBERTSON did transport in interstate commerce approximately $980,000, one 1979 Cadillac Sedan de Ville automobile, and two kilograms of cocaine, which he then and there well knew were stolen, converted and taken by fraud; in violation of Title 18, United States Code, Section 2314.

Racketeering Act 7:

b. On or about January 24, 1985, within the Central District of California and the District of Arizona, defendant JUAN PAUL ROBERTSON transported in interstate commerce from the State of California to the State of Arizona approximately 22 kilograms of cocaine and a large undetermined amount of cash in excess of $5,000, which he then and there well knew were stolen, converted and taken by fraud; in violation of Title 18, United States Code, Section 2314.

Racketeering Act 8:

c. In or about October, 1986, within the Central District of California, defendant JUAN PAUL ROBERTSON did knowingly and intentionally possess with intent to distribute approximately three kilograms of cocaine; in violation of Title 21, United States Code, Section 841 (a)(1).

Racketeering Act 9:

d. On or about March 4, 1987, within the Southern District of California, defendant JUAN PAUL ROBERTSON knowingly and intentionally distributed approximately four kilograms of cocaine, which he had obtained from Jose Antonio Maldonado and Eduardo Rodriguez,

to Dean Edward Stephens and Sandra Lynn Stephens; in violation of Title 18, United States Code, Section 841 (a)(1).

Racketeering Act 10:

e. In or about April 1987, at Los Angeles, California, within the Central District of California, defendant JUAN PAUL ROBERTSON knowingly and intentionally distributed approximately five kilograms of cocaine to Peruvian cocaine traffickers in order to effect the release from custody of one Jose Antonio Maldonado, who had been kidnapped by said Peruvian cocaine traffickers and held for ransom; in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

Racketeering Act 11:

f. From on or about August 12, 1987, to on or about November 2, 1987, within the Central District of California and elsewhere, defendant JUAN PAUL ROBERTSON knowingly and willfully conducted and attempted to conduct a financial transaction affecting interstate commerce, to wit, structuring a deposit of approximately $102,000 in cash, which cash, in fact, was the proceeds of a specified unlawful activity, that is, dealing in narcotics and other dangerous drugs, knowing full well that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of such specified unlawful activity and to avoid a transaction reporting requirement under federal law, to wit, Title 31, United States Code, Section 5313; and knowing further that the property, that is, approximately $102,000 in cash, involved in the financial transaction represented the proceeds of some form of unlawful activity; in violation of Title 18, United States Code, Sections 1956(a)(1)(B), and Section 2.

All in violation of Title 18, United States Code, Section 1962(a).

Count 7

Forfeitures

The grand jury further charges:

1. Paragraphs 1 through 5 of Count 6 of this indictment are repeated and realleged as if fully set forth herein for the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Section 1963 (a)(1), (2), and (3).

2. Through the aforesaid pattern of racketeering activity, the defendant JUAN PAUL ROBERTSON has acquired and maintained interests in violation of Title 18, United States Code, Section 1962, which interests, wherever located and in whatever names held, are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1). Such interests of defendant JUAN PAUL ROBERTSON include, but are not limited to, the following:

a. Cash in the amount of approximately $980,000, which was acquired through the racketeering activity set forth in paragraph 5a of Count 6 of this indictment;

b. One 1979 Cadillac Sedan de Ville automobile.

c. Cash in the amount of approximately $200,000, which was acquired through the racketeering activity set forth in paragraph 5f of this indictment.

3. Through the aforesaid pattern of racketeering activity, the defendant JUAN PAUL ROBERTSON has interests in, securities of, claims against, and property and contractual rights affording sources of influence over an enterprise which he established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962, thereby making such interests, securities, claims, property and contractual rights, wherever located, and in whatever

names held, subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963 (a)(2). Such interests of defendant JUAN PAUL ROBERTSON include, but are not limited to, those interests set forth in subparagraphs 2a, 2b, and 2c of these Forfeiture Allegations which are incorporated by reference.

4. The defendant JUAN PAUL ROBERTSON has property constituting and derived from proceeds which he obtained, directly and indirectly, from racketeering activity in violation of Title 18, United States Code, Section 1962, thereby making such property, or an amount of cash equivalent thereto, forfeitable to the United States pursuant to Title 18, United States Code, Section 1963 (a)(3). Such property includes, but is not limited to, those interests set forth in subparagraphs 2a, 2b, and 2c of these Forfeiture Allegations which are incorporated by reference.

All in violation of Title 18, United States Code, Section 1963.

Count 8

From in or about the month of November 1983, and continuing thereafter up to and including the date of the filing of this indictment, within the Southern District of California and elsewhere, defendant JUAN PAUL ROBERTSON did unlawfully, willfully, knowingly and intentionally engage in a Continuing Criminal Enterprise in that he did violate Title 21, United States Codes, Sections 841(a)1), 843(b), and 846, as alleged in Counts 1 through 5 and racketeering acts 8 through 10 of Count 6 of this indictment (said counts and racketeering acts being incorporated herein by reference), which violations were part of a continuing series of violations of said statutes undertaken by defendant JUAN PAUL ROBERTSON, in concert with at least five other persons, with respect to whom the defendant occupied a position of organizer, supervisor, and manager, and from which con-

tinuing series of violations the defendant obtained substantial income and resources; in violation of Title 21, United States Code, Section 848.

DATED: October 17, 1991.

A TRUE BILL:

Foreperson

WILLIAM BRANIFF
United States Attorney

By:
STEPHEN W. PETERSON
Assistant U.S. Attorney

JURY INSTRUCTIONS

[Tr. 2256-2300]

* * * *

[2256] THE COURT: Ladies and gentlemen, you are the sole judges of the facts. However, you must apply the law as I state it to you. You must not be influenced by sympathy, passion, prejudice or public opinion. You are not to single out any one instruction but must consider them as a whole. [2257] In judging the evidence, give it a reasonable and fair construction.

An indictment is only a method of accusing a defendant of a crime. It is not evidence, and you are not to infer from it that the defendant is more likely to be guilty than innocent. The law presumes a defendant to be innocent of crime. So, although accused, defendants begin the trial with a clean slate, with no evidence against them.

A defendant is presumed to be innocent until the evidence proves guilt beyond a reasonable doubt. This law applies to every element of the offenses charged.

This presumption of innocence is enough to acquit a defendant unless you, as jurors, are satisfied beyond a reasonable doubt of guilt. It is not required that the Government prove guilt beyond all possible doubt. The test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense and may arise from a careful and impartial consideration of all the evidence or from lack of evidence. Proof beyond a reasonable doubt is proof that leaves you firmly convinced that the defendant is guilty.

A reasonable doubt exists when, after careful and impartial consideration of all of the evidence in the case, you as jurors do not feel convinced that a defendant is guilty of the charges. This burden of proof is always on the [2258] prosecution and never shifts to a defendant. The law never imposes upon the defendant the burden or duty of calling any witness or producing any evidence.

If there's a reasonable doubt as to a defendant's guilt, you must return a verdict of not guilty.

You are the sole judges of the credibility of the witnesses who have testified in this case, and the weight their respective testimony deserves. In determining the credibility of the witnesses, you may consider any matter in evidence that has a tendency in reason to prove or disprove the truthfulness of their testimony, including but not limited to the following: their demeanor while testifying; the manner in which they have testified; the character of their testimony; their intelligence, motive and state of mind; their ability to observe the matters as to which they have testified; the extent of or non-existence of a bias or interest; statements previously made by the witness that are consistent or inconsistent with their testimony.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause the jury to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently. An innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the effect of a [2259] discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

After making your own judgment, you will give the testimony of each witness such credibility, if any, as you think it deserves. You are not bound to decide any issue of fact in accordance with the testimony of any number of witnesses which does not produce in your minds' belief in the likelihood of truth, as against the testimony of a lesser number of witnesses or other evidence which does produce such belief in your minds. The test is not which side brings the greater number of witnesses or presents the greater amount of evidence but which witness and

which evidence appeals to your minds as being most accurate and trustworthy.

The defendant has testified. You are to judge the credibility of his testimony in the same way as you would consider the testimony of any other witness. The evidence in the case consists of the sworn testimony of all witnesses, all exhibits received in evidence and all facts which have been admitted or stipulated.

When the Court has sustained an objection to a question, you must not speculate as to what the answer might have been or the reason for the objection. If any evidence was striken by the Court, such matter must be treated as [2260] though you had never heard it. Do not assume that I hold any opinion on any fact in the case. If I have made any comment as to the facts—I don't think I have, but if I have, you are at liberty to disregard any such comment, but you must follow these instructions on the law.

Any statement of the Court to an attorney is not to be considered by you in arriving at your verdict.

Evidence may be either direct or circumstantial. It is direct evidence if it proves a fact without an inference and which in itself, if true, conclusively establishes that fact. It is circumstantial evidence if it proves a fact from which an inference of the existence of another fact may be drawn.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence.

The law makes no distinction between direct and circumstantial evidence as to the degree of proof required; each is accepted as a reasonable method of proof and each is respected for such convincing force as it may carry.

In every crime, there must exist a union of act and intent. The burden is always upon the Government to prove both act and intent beyond a reasonable doubt.

In this case, specific intent must be proved.

A person who knowingly does an act which the law [2261] forbids, intending with bad purpose to disobey the law, may be found to act with specific intent.

While witnesses may see and hear and so be able to give direct evidence of what a defendant does, there can be no eye-witness account of the state of mind with which the acts were done. So intent may be proved by circumstantial evidence and it rarely can be established by other means.

"Unlawfully" means contrary to law. So to do an act unlawfully means to do willfully something which is contrary to law.

An act is done "willfully" if done voluntarily and intentionally, and with the intent to do something the law forbids.

An act is done "knowingly" if done voluntarily and intentionally and not because of mistake or accident or other innocent reason.

In the indictment, which I unfortunately have to read to you again, ladies and gentlemen, the grand jury charges:

Count 1. Beginning at a date unknown to the grand jury and continuing up to and including November 5, 1987, within the Southern District of California, and elsewhere, defendant Juan Paul Robertson did knowingly and intentionally combine, conspire and agree with Dean Edward Stephens, Sandra Lynn Stephens, Phillip Duane Rushin, Edward John Studebaker, [2262] Elizabeth T. Grove, Edwin Andrew Dickson, Floyd Lee Robertson, Jose Antonio Maldonado, Eduardo Rodriguez-Bonilla and Oscar Giron, not charged herein, and with diverse other persons known and unknown to the grand jury to violate the laws of the United States, to wit, to knowingly and intentionally possess with intent to distribute cocaine, a Schedule II controlled substance; in violation of Title 21, United States Code, Section 841(a)(1).

Overt Acts. In furtherance of said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed within the Southern District of California, and elsewhere:

1. In or about June 1986, defendant Juan Paul Robertson met with Jose Antonio Maldonado and discussed the processing of unrefined cocaine;

2. Several weeks after the discussion referred to in Overt Act 1, defendant Juan Paul Robertson discussed this subject again with Jose Antonio Maldonado.

3. —or 2, which is again numbered 2 but is 3, in or about October 1986, defendant Juan Paul Robertson met with Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla, not charged herein, and discussed the sale of several kilograms of cocaine.

Next, on or about November 1, 1986, defendant Juan Paul Robertson discussed with Dean Edward Stephens the need [2263] to obtain a chemist capable of converting coca paste to cocaine in order to maximize drug profits.

4. On or about November 27, 1986, defendant Juan Paul Robertson received delivery of two kilograms of cocaine from Jose Antonio Maldonado, Eduardo Rodriguez-Bonilla and Oscar Giron, at 10880 Wilshire Boulevard in Los Angeles, California.

5. On or about November 27, 1986, defendant Juan Paul Robertson delivered two kilograms of cocaine to Dean Edward Stephens and Sandra Lynn Stephens at 10880 Wilshire Boulevard in Los Angeles, California.

6. On or about November 27, 1986, Cheryl Ledford met with Dean Edward Stephens and Sandra Lynn Stephens, in Dana Point, California, and discussed the purchase and sale of large quantities of cocaine.

7. On or about December 15, 1986, Oscar Giron received partial payment from defendant Juan Paul Robertson for two kilograms of cocaine he earlier delivered to defendant Juan Paul Robertson on or about November 27, 1986, in Los Angeles, California.

8. On or about December 19, 1986, Dean Edward Stephens obtained a multi-kilogram quantity of cocaine from defendant Juan Paul Robertson in Los Angeles, California.

9. On or about December 21, 1966, Cheryl Ledford bought one kilogram of cocaine from Dean Edward Stephens for [2264] $25,000.

10. On or about January 1, 1987, Jose Antonio Maldonado delivered a two-ounce sample of cocaine to defendant Juan Paul Robertson in Los Angeles, California, as a sample of the type of cocaine which Jose Antonio Maldonado could supply to defendant Juan Paul Robertson in the future.

11. On or about January 17, 1987, at approximately 12:27 p.m., Phillip Duane Rushin and Edward John Studebaker discussed the sale of a kilogram quantity of cocaine.

12. On or about January 21, 1987, at approximately 8:05 a.m., Elizabeth T. Grove telephoned Dean Edward Stephens and advised him she needed what they had earlier discussed.

13. On or about January 21, 1987, defendant Juan Paul Robertson delivered to Dean Edward Stephens, previously indicted, approximately one kilogram of cocaine in Los Angeles, California.

14. On or about January 21, 1987, Dean Edward Stephens telephone Elizabeth T. Grove and assured her she could make her trip.

15. On or about January 21, 1987, at approximately 8:42 p.m., Elizabeth T. Grove placed a phone call to 303-923-4310.

16. On or about January 22, 1987, at approximately 7:42 a.m., Elizabeth T. Grove telephoned Edward John Studebaker and negotiated with him the price of a kilogram of [2265] cocaine and discussed her travel itinerary.

17. On or about January 22, 1987, at approximately 10.44 a.m., Elizabeth T. Grove telephoned the residence

of Dean Edward Stephens and Sandra Lynn Stephens and stated she was on her way over.

18. On or about January 22, 1987, Elizabeth T. Grove, Phillip Duane Rushin, Sandra Lynn Stephens and Dean Edward Stephens possessed approximately 1,010.8 grams of cocaine with intent to distribute.

19. On or about January 22, 1987, Elizabeth T. Grove traveled from her residence to 17204 La Brisa, Rancho Santa Fe, California, immediately prior to leaving for Grand Junction, Colorado.

20. On or between January 22 and January 23, 1987, he Elizabeth T. Grove traveled from California to Colorado with approximately 1,010.8 grams of cocaine with intent to distribute.

21. On or about January 23, 1987, Elizabeth T. Grove left Grand Junction, Colorado, en route to the residence of Edward John Studebaker to deliver one kilogram of cocaine.

22. On or about January 23, 1987, Dean Edward Stephens telephoned defendant Juan Paul Robertson to advise defendant Juan Paul Robertson of the arrest of cocaine runner Elizabeth T. Grove.

[2266] 23. On or about January 28, 1987, defendant Juan Paul Robertson received delivery of approximately three kilograms of cocaine from Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla in Los Angeles, California.

24. On or about January 28, 1987, Dean Edward Stephens purchased two kilograms of cocaine from defendant Juan Paul Robertson in Los Angeles, California.

25. On or about January 30, 1987, Dean Edward Stephens delivered ¼ pound of cocaine to Cheryl Ledford at 17204 La Brisa, Rancho Santa Fe, California, which was part of the two-kilogram purchase earlier obtained from defendant Juan Paul Robertson.

26. On or about February 17, 1987, to on or about February 20, 1987, Elizabeth T. Grove, Phillip Duane Rushin, Dean Edward Stephens, Sandra Lynn Stephens,

Edwin Andrew Dickson, and Floyd Lee Robinson had a series of conversations where efforts were made to recover from a financial loss by additional sales of narcotics.

27. On or about February 25, 1987, defendant Juan Paul Robertson had a telephone conversation with Dean Edward Stephens wherein defendant Robertson requested payment in full for cocaine he had supplied to Dean Edward Stephens that week.

28. On or about March 1, 1987, Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla met with defendant [2267] Juan Paul Robertson in Los Angeles, California, at which time defendant Juan Paul Robertson requested a delay in payment for cocaine earlier fronted to him (Robertson), because some of "his people" in San Diego, California, had been arrested.

29. On or about March 1, 1987, Defendant Juan Paul Robertson instructed Eduardo Rodriguez-Bonilla and Jose Antonio Maldonado to limit their cocaine transactions to five kilograms or less, to fall within Federal guidelines in the event they were arrested.

30. On or about March 4, 1987, Floyd Lee Robertson talked on the telephone with Sandra Lynn Stephens about payment for a narcotics transaction.

31. On or about March 5, 1987, defendant Juan Paul Robertson delivered approximately four kilograms of cocaine to Dean Edward Stephens in Los Angeles, California.

All in violation of Title 21, United States Code, Section 846.

Count 2. On or about December 21, 1986, within the southern district of California, Dean Edward Stephens and Sandra Lynn Stephens did knowingly and intentionally distribute approximately one kilogram of cocaine, a schedule II controlled substance, and defendant Juan Paul Robertson did knowingly and intentionally aid, abet, counsel, command and procure the commission of the aforesaid offense; in violation of Title 21, United States Code, Section 841(A)(1), [2268] and Title 18, United States Code, Section 2.

Count 3. On or about January 22, 1987, within the southern district of California, Dean Edward Stephens, Sandra Lynn Stephens and Elizabeth T. Grove, along with Jose Antonio Maldonado and Eduardo Rodriguez-Bonilla did knowingly and intentionally possess, with intent to distribute, approximatey 1,010.8 grams of cocaine, a schedule II controlled substance, and defendant Juan Paul Robertson did knowingly and intentionally aid, abet, counsel, command and procure the commission of the aforesaid offense; in violation of Title 21, United States Code, Section 841(A)(1), and Title 18, United States Code, Section 2.

Count 4. On or about January 30, 1987, within the southern district of California, Dean Edward Stephens and Sandra Lynn Stephens did knowingly and intentionally distribute several ounces of cocaine, a schedule II controlled substance, and defendant Juan Paul Robertson did knowingly and intentionally aid, abet, counsel, command and procure the commission of the aforesaid offense; in violation of Title 21, United States Code, Section 841(A)(1), and Title 18, United States Code, Section 2.

Count 5. On or about February 25, 1987, within the southern district of California, at approximately 8:38 p.m., defendant Juan Paul Robertson did knowingly and intentionally use a communication facility, namely, a telephone, in [2269] committing and in causing and facilitating the commission of controlled substance offenses in violation of Title 21, United States Code, Sections 846 and 841(A)(1), that is, distribution of and possession with intent to distribute a controlled substance, and conspiracy to do so; in violation of Title 21, United States Code, Section 843(B).

Count 6. Introduction. 1. From in or about April 1985, and continuing up to and including April 1988, Double Eagle Mining Company, Circle Hot Springs,

Alaska, which was a partnership formed in principle in April 1985, legally formalized on June 20, 1985, and dissolved on July 31, 1985, and Robertson Mining Company, Circle Hot Springs, Alaska, a sole proprietorship of defendant Juan Paul Robertson, constituted an enterprise, as that term is defined in Title 18, United States Code, Section 1961(4), which was engaged in, and the activities of which affected, interstate and foreign commerce.

2. At all times material to this indictment, defendant Juan Paul Robertson was an attorney licensed to practice law in the State of California.

3. At various times beginning in 1980 and continuing up to and including the date of this indictment, defendant Juan Paul Robertson maintained law offices at various locations in Los Angeles and Santa Monica, California, and was engaged primarily in defending persons [2270] accused of crime.

Allegations. 4. From in or about April 1985, and continuing up to and including November 1987, defendant Juan Paul Robertson, having received income derived, directly and indirectly, from a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Section 1986(5), unlawfully and knowingly did, directly and indirectly, use and invest a part of such income and the proceeds derived from such income, in acquisition of and interest in, and the establishment and operation of, an enterprise was engaged in and whose activities affected interstate and foreign commerce.

5. The pattern of racketeering activity committed by the defendant consisted of racketeering acts 1 through 5, which are acts charged in counts 1 through 5 of this indictment, and which are realleged and incorporated by reference herein, and racketeering acts 6 through 11 set forth below in subparagraphs 5(A) through 5(F):

Racketeering acts. The pattern of said racketeering activity committed by the defendant Juan Paul Robertson consisted of multiple acts of illegal distribution of con-

trolled substances as alleged in counts 1 through 5 of this indictment and paragraphs 5A through 5F as enumerated below, in violation of Title 21, United States Code, Sections 841(A)(1) and 846, and Title 18, United States Code, Sections [2271] 2514 and 956.

Racketeering Act 6: From on or about November 15, 1983, to on or about April 1985, within the central district of California, the district of Arizona, and elsewhere, defendant Juan Paul Robertson did transport in interstate commerce approximately $980,000, one 1979 Cadillac Sedan De Ville automobile, and two kilograms of cocaine, which he then and there well knew were stolen, converted and taken by fraud; in violation of Title 18, United States Code, Section 2314.

Racketeering Act 7: On or about January 24, 1985, within the central district of California and the district of Arizona, defendant Juan Paul Robertson transported in interstate commerce from the State of California to the State of Arizona approximately 22 kilograms of cocaine and a large undetermined amount of cash in excess of $5,000, which he then and there well knew were stolen, converted and taken by fraud; in violation of Title 18, United States Code, Section 2314.

Racketeering Act 8: C. In or about October 1986, within the central district of California, defendant Juan Paul Robertson did knowingly and intentionally possess with intent to distribute approximately three kilograms of cocaine; in violation of Title 21 United States Code, Section 841(A)(1).

[2272] Racketeering Act 9: D. On or about March 4, 1987, within the southern district of California, defendant Juan Paul Robertson knowingly and intentionally distributed approximately four kilograms of cocaine, which he had obtained from Jose Antonio Maldonado and Eduardo Rodriguez, to Dean Edward Stephens and Sandra Lynn Stephens; in violation of Title 18, United States Code, Section 841(A)(1).

Racketeering Act 10: E. In or about April 1987, at Los Angeles, California, within the central district of California, defendant Juan Paul Robertson knowingly and intentionally distributed approximately five kilograms of cocaine to Peruvian cocaine traffickers in order to effect the release from custody of one Jose Antonio Maldonado, who had been kidnapped by said Peruvian cocaine traffickers and held for ransom; in violation of Title 21, Uinted States Code, Section 841(A)(1), and Title 18, United States Code, Section 2.

Racketeering Act 11: F. From on or about August 12, 1987, to on or about November 2, 1987, within the central district of California and elsewhere, defendant Juan Paul Robertson knowingly and willfully conducted and attempted to conduct a financial transaction affecting interstate commerce, to wit, structuring a deposit of approximately $102,000 in cash, which cash, in fact, was the proceeds of a specified unlawful activity, that is, dealing in narcotics [2273] and other dangerous drugs, knowing full well that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of such specified unlawtul activity and to avoid a transaction reporting requirement under federal law to wit, Title 31, United States Code, Section 5313; and knowing further that the property, that is, approximately $102,000 in cash, involved in the financial transaction represented the proceeds of some form of unlawful activity; in violation of Title 18, United States Code, Sections 1956(A)(1)(2), and Section 2.

All in violation of Title 18, United States Code, Section 1962(A).

Count 8. From in or about the month of November 1983, and continuing thereafter up to and including the date of the filing of this indictment, which incidentally was October 17, 1991, within the southern district of California and elsewhere, defendant Juan Paul Robertson

did unlawfully, willfully, and knowingly and intentionally engage in a continuing criminal enterprise in that he did violate Title 21, United States Code, Section 841(A)(1), 843(B) and 846, as alleged in counts 1 through 5 and Racketeering Acts 8 through 10 of count 6 of this indictment (said counts and Racketeering Acts being incorporated herein by reference), which violations were part of a continuing series of [2274] violations of said statutes undertaken by defendant Juan Paul Robertson, in concert with at least five other persons, with respect to whom the defendant occupied a position of organizer, supervisor, and manager, and from which continuing series of violations the defendant obtained substantial income and resources; in violation of Title 21, United States Code, Section 848.

Dated October 17, 1991.

And I think we will take a 15-minute recess at this time ladies and gentlemen, while I rest my voice. Please remember my admonitions. We will be in recess for 15 minutes.

(Recess)

THE COURT: You are not late, Ms. Landes. I just got here. The court finds the jurors all present, together with the defendant and counsel.

A conspiracy is a kind of criminal partnership, an agreement of two or more persons to commit one or more crimes. The crime is the agreement to do something unlawful. It does not matter whether the crime agreed upon was committed.

For a conspiracy to have existed, it is not necessary that the conspirators made a formal agreement or that they agreed on every detail of the conspiracy. It is not enough, however, that they simply met, discussed matters [2275] of common interest, acted in similar ways or perhaps helped one another. You must find that there was a plan to commit at least one of the objects of the conspiracy.

One becomes a member of a conspiracy by willfully participating in the unlawful plan with the intent to advance or further some object or purpose of the conspiracy, even though the person does not have full knowledge of all the details of the conspiracy. Furthermore, one who willfully joins an existing conspiracy is charged with the same responsibility as if that person had been one of the originators of it. On the other hand one who has no knowledge of the conspiracy but happens to act in a way which furthers some object or purpose of the conspiracy does not thereby become a conspirator. Similarly, a person does not become a member merely by associating with one or more persons who are conspirators, nor merely by knowing of the existence of a conspiracy.

An overt act does not itself have to be unlawful. A unlawful act may be an element of a conspiracy if it was done for the purpose of carrying out the conspiracy. The Government is not required to prove that the defendant personally did one of the overt acts. Once you have decided that the defendant was a member of a conspiracy, the defendant is responsible for what other conspirators said or did to carry out the conspiracy, whether or not the defendant [2776] knew what they said or did.

You will note that the indictment charges that the alleged conspiracy began at a time unknown to the grand jury and continuing up to and including November 2, 1987. The evidence in this case need not establish the exact time during which the alleged conspiracy existed. It is sufficient if the evidence in the case shows beyond a reasonable doubt that the offense charged was committed on dates, or during times, reasonably near the dates and times alleged in the indictment.

You must decide whether the conspiracy charged in the indictment existed and, if it did, who at least some of its members were. If you find that the conspiracy charged did not exist, then you must return a not guilty verdict, even though you may find that some other con-

spiracy existed. Similarly, if you find that the defendant was not a member of the charged conspiracy, then you must find the defendant not guilty, even though the defendant may have been a member of some other conspiracy.

Section 841(A)(1) of Title 21 of the United States Code provides, in part, that it shall be unlawful for any person knowingly or intentionally to possess cocaine with the intent to distribute, or to distribute cocaine, a controlled substance.

Count 2 of the indictment charges that on or about [2277] the 21st of December, 1986, in the Southern District of California, defendant Juan Paul Robertson knowingly and intentionally distributed approximately one kilogram of cocaine, a controlled substance.

Count 3 of the indictment charges that on or about the 22nd day of January, 1987, in the Southern District of California, defendant Juan Paul Robertson knowingly and intentionally possessed approximately 1,010.8 grams of cocaine, a controlled substance, with intent to distribute.

Count 4 of the indictment charges that on or about the 30th day of January 1987, in the Southern District of California, defendant Juan Paul Robertson knowingly and intentionally distributed approximately several ounces of cocaine, a controlled substance.

In order to sustain its burden of proof for the crime of distribution of a controlled substance, as charged in counts 2 and 4 of the indictment, the Government must prove the following beyond a reasonable doubt: first, the defendant knowingly and intentionally distributed the controlled substance described in the indictment and, second, at the time of such distribution, the defendant knew that the substance distributed was cocaine, a controlled substance.

In count 3, the defendant is charged with possession of cocaine with the intent to deliver it. In order to find the

defendant guilty of that charge, the [2278] government must prove that the defendant knowingly possessed cocaine and that he possessed it with the intent to deliver it to another person.

The term "to possess" means to exercise control or authority over something at a given time. There are several types of possession: actual and joint. The "possession" is considered to be actual possession when a person knowingly has direct physical control or authority over something. The "possession" is called constructive possession when a person does not have direct physical control over something but can knowingly control it and intends to control it, sometimes through another person.

The "possession" may be knowingly exercised by one person exclusively which is called sole possession, or the "possession" may be knowingly exercised jointly when it is shared by two or more persons.

You are instructed as a matter of law that cocaine is a controlled substance.

The evidence received in this case need not prove the actual amount of the controlled substance that was part of the alleged transaction or the exact amount of the controlled substance alleged in the indictment as distributed or possessed with the intent to distribute.

The Government must prove beyond a reasonable doubt, however, that a measurable amount of the controlled [2279] substance was, in fact, knowingly and intentionally distributed or possessed with the intent to distribute by the defendant.

A defendant may be found guilty of a crime even if the person—let me start over.

A person may be found guilty of a crime even if the defendant personally did not commit the act or acts constituting the crime but aided and abetted in its commission. To prove a defendant guilty of aiding and abetting, the Government must prove beyond a reasonable doubt:

First, the crime was committed;

Second, the defendant knowingly and intentionally aided, counseled, commanded, induced, or procured others to commit the crime; and

Third, the defendant acted before the crime was completed.

It is not enough that the defendant merely associated with another or was present at the scene of the crime or unknowingly or unintentionally did things that were helpful to the principal,

The evidence must show beyond a reasonable doubt that the defendant acted with the knowledge and intention of helping others commit the crime.

The Government is not required to prove precisely [2280] which defendant actually commited the crime and which person aided and abetted.

The defendant is charged in count 5 of the indictment with illegal use of a communication facility in violation of Section 843(B) of Title 21 of the United States Code. In order for the defendant to be found guilty of that charge, the Government must prove beyond a reasonable doubt that the defendant used a telephone to help bring about the conspiracy to distribute cocaine charged in count 1 of the indictment.

You have heard testimony from witnesses who have received immunity. That testimony was given in exchange for a promise by the Government that the witness will not be prosecuted or that their testimony will not be used in any case against them.

In evaluating their testimony, you should consider whether the testimony may have been influenced by the Government's promise of immunity given in exchange for it and you should consider that testimony with greater caution than that of ordinary witnesses.

Some witnesses have pleaded guilty to a crime arising out of the same events for which the defendant is on trial. Their guilty pleas are not evidence against the defendant, and you may consider that only in deter-

mining the believability of those witnesses. You should consider the [2281] testimony of those witnesses with great caution, giving it the weight that you feel it deserves.

You have heard recordings of various conversations. These conversations were legally recorded by the Government; they are a proper form of evidence for this trial, and you may consider them just like any other evidence.

You have heard testimony from persons described as experts, or person described as an expert anyway. Persons who, by education and experience, have become expert in some field may state their opinion on matters in that field and may also state their reasons for the opinion.

Expert opinion testimony should be judged just like any other testimony. You may accept it or reject it and give it as much weight as you think it deserves, considering the witness' education and experience, and reasons given for the opinion, and all the other evidence in the case.

Count 6 of the indictment charges the defendant with violating Section 1962(A) of Title 18 of the United States Code. That section, in pertinent part, provides:

It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity to use or invest, directly or indirectly, any part of such income in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in or the activities of which [2282] affect, interstate or foreign commerce.

In order to establish the charge in count 6 of the indictment, four essential elements must be established beyond a reasonable doubt:

First, that an enterprise existed;

Second, that the defendant received income which he knew to be derived from a pattern of racketeering activity;

Third, that the defendant used that income so derived in the acquisition of an interest in or in the establishment or operation of an enterprise;

Fourth, that the enterprise was engaged in interstate commerce or that its activities affected interstate or foreign commerce.

The word "racketeering" has certain implications in our society. Use of that term in this statute and in this courtroom should not be regarded as having anything to do with your determination of whether the guilt of this defendant has been proven. The term is only a term used by Congress to describe the statute.

As I have just explained, the first element that the Government must prove is that an enterprise existed, which was engaged in or had an affect upon interstate commerce.

An enterprise includes a partnership which is associated together for a common purpose of engaging in a [2283] course of conduct. This partnership, in addition to having a common purpose, must have an ongoing organization, either formal or informal, and it must have personnel who function as a unit. This group may be organized for a legitimate and lawful purpose, or it may be organized for an unlawful purpose.

The Government has charged in the indictment as constituting the enterprise, the partnership in the mine and the sole proprietorship characterized by a common purpose, an ongoing formal or informal organization, by individuals who functioned as a continuing unit. If you so find, then you may find that an enterprise existed.

In order to prove a pattern of racketeering activity, it is not sufficient for the government to prove only that the defendant committed two of the racketeering acts as I have just described. A series of disconnected acts does not constitute a pattern, and a series of disconnected crimes does not constitute a pattern of racketeering activity.

In order to prove a pattern of racketeering activity, the government must prove beyond a reasonable doubt that at least two of the charged racketeering acts were

connected by a common scheme, plan or motive, and that at least two of the charged racketeering acts were committed within ten years of each other and that at least one of those [2284] acts occurred after October 12, 1984.

The second element of the offense is that the defendant derived income from a pattern of racketeering activity. This means that you must find that the government has proved beyond a reasonable doubt that the defendant obtained income through the commission of at least two racketeering acts. The Government has charged the defendant with committing the racketeering acts of interstate transportation of stolen property, with conspiracy to possess cocaine with the intent to distribute, possession of cocaine with the intent to distribute, distribution of cocaine, use of a communication facility in furtherance of a narcotic felony, and aiding and abetting, the predicate acts contined in count 6.

In order to establish a pattern of racketeering activity as alleged in that count, the Government must prove beyond a reasonable doubt that:

One, at least two acts of racketeering as detailed in the indictment were committed within ten years of each other;

Two, the racketeering acts have the same or similar purposes, results, participants, victim or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated events;

Three, the racketeering acts themselves constitute [2285] a threat of continued activity. This threat of continued activity may be established when the evidence shows that the racketeering acts are part of a long-term association that exists for criminal purposes or when the racketeering acts are shown to be a regular way of conducting a defendant's ongoing legitimate business or enterprise.

The defendant is charged in racketeering act 6 of count 6 of the indictment with transportation of stolen property, approximately $980,000 cash, a 1979 Cadillac De Ville

and two kilos of cocaine; in violation of Section 2314 of Title 18 of the United States Code.

Racketeering act 7 of count 6 of the indictment charges that on or about the 25th day of January, 1985, in the Southern District of California, the defendant transported stolen goods, that is, approximately 22 kilos of cocaine, and an undetermined amount of cash, over $5,000 in interstate commerce, knowing that those goods were stolen.

In order to sustain its burden of proof for the crime of transporting stolen goods in interstate commerce as charged in racketeering acts 6 and 7 of count 6, the Government must prove the following four essential elements beyond a reasonable doubt:

One, the property described in the indictment was stolen;

Two, the stolen property has a value of at least [2286] $5,000;

Three, after the property was stolen, the defendant transported it or caused it to be transported from one State to another State; and

Four, at the time the defendant transported the property or caused the property to be transported, the defendant knew it had been stolen.

The term "stolen" means acquired or kept dishonestly and includes any form of taking from another without that person's consent, with the intention of depriving that person of the rights and benefits of possession or ownership, permanently or temporarily.

The phrase "interstate commerce" means trade or travel from one State to another.

The phrase "transports in interstate commerce" means to move from one State to another.

The term "value" means the price, par value, or market value, whichever is the highest, and the aggregate or total value of all the goods and merchandise.

Possession of property recently stolen, if not satisfactorily explained, is a circumstance from which a jury may

infer that the person in possession of it not only knew that the property was stolen but also participated in the theft in some way.

The term "recently" is a relative one and has no [2287] fixed meaning. Whether property may be considered as recently stolen depends upon the nature of the property and all of the other evidence received in the case.

It is solely for the jury to determine what inferences, if any, should be drawn from the evidence received in this case.

Section 2314 of Title 18 of the United States Code provides, in part, that whoever transports in interstate commerce any goods, wares, merchandise, securities or money, of the value of $5,000 or more, knowing the same to have been stolen, shall be guilty of an offense against the United States.

The crimes of interstate transportation of stolen property, conspiracy to possess cocaine with the intent to distribute, distribution of cocaine, possession of cocaine with the intent to distribute, use of a communication facility or a telephone, and structuring a financial transaction charged in count 6 of the indictment are racketeering acts. If you find the defendant guilty of at least two of the crimes charged in count 6, you must then decide whether those acts form a pattern of racketeering activity.

A pattern of racketeering activity is at least two racketeering acts that have a relationship to each other, plus a threat of continuity. Conduct forms a pattern if it [2288] consists of criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated.

To prove the charge in racketeering act 11 that a violation of Title 18, United States Code, Section 1956, sub 1, was committed, the prosecution must establish beyond a reasonable doubt each of the following:

That the defendant conducted or caused another to conduct a financial transaction involving property constituting the proceeds of the felonious importation and/or selling of narcotics and other dangerous drugs, punishable by any law of the United States;

Second, that the defendant knew that the property involved in the financial transaction was the proceeds of some form of unlawful activity, meaning a felonious activity under State or Federal law; and

Third, that the defendant knew that the transaction was designed in whole or in part, either to conceal or disguise the nature, location, source, ownership, or control of the proceeds of unlawful activity or to avoid a transaction reporting requirement under State or Federal law.

The first element of the Section 1956(A)(1) offense that the government alleges was a racketeering act is that Mr. Robertson conducted or caused another to conduct a [2289] financial transaction involving property constituting the proceeds of the felonious selling of narcotics and other dangerous drugs punishable under any law of the United States. Some of those terms require definition.

The first element of this money laundering offense is that the defendant conducted a financial transaction involving property constituting the proceeds of narcotic distribution, punishable under Title 21, United States Code, Section 841(A)(1).

The term "conducts" means initiating, concluding, or participating in initiating or concluding a transaction.

The term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution by whatever means effected.

For purpose of the currency reporting laws, the term "financial institution" means any agent, agency, branch, or office within the United States of a bank, a broker or dealer in securities, a currency dealer or exchanger, or a licensed transmitter of funds.

[2290] The term "financial transaction" means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects interstate or foreign commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.

The second element of the Section 1956(A)(1) offense that the government alleges was an object of the conspiracy is that the defendant knew that the money involved in the financial transaction was the proceeds of some form of unlawful activity; that is, activity that is a felony under State or Federal law.

To satisfy that element, the government must prove beyond a reasonable doubt that Mr. Robertson knew the money involved in the transaction represented proceeds of the selling of narcotics and other dangerous drugs.

The third element of the Section 1956(A)(1) offense that the government alleges is an object of the conspiracy is that the defendant either knew that the trasaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of the importation or selling of narcotics and other dangerous drugs, or knew that the transaction was designed in whole or in part to avoid a transaction reporting requirement [2291] under state or federal law.

You may find interstate commerce within the meaning of these instructions if you find beyond a reasonable doubt that the financial institutions involved were formed for the purpose of doing business both within and without the states in which they exist, or that the activities of the

financial institutions have an effect, however small, on interstate or foreign commerce.

Title 31, United States Code, Section 5313 and regulations promulgated under it require domestic financial institutions to file currency transaction reports with the Secretary of the Treasury whenever there is a deposit, withdrawal, exchange of currency or other payment or transfer by, through, or to such financial institution of more than $10,000 cash.

Structuring a transaction could also be defined as designing a transaction for the purpose of evading the currency reporting requirements. Thus, a person structures a transaction if he designs the transaction so that it is completed through a series of other transactions at one or more financial institutions. The transaction or transactions need not exceed the $10,000 reporting threshold at any single financial institution on any single day in order to constitute structuring within the meaning of this definition.

Count 8 of the indictment charges that beginning on [2292] or about the month of November, 1983, until on or about the date of the filing of this indictment, in the southern district of California, and elsewhere, defendant committed a violation of certain narcotics laws as part of a continuing series of such violations and that, further, this series was done in some type of arrangement or agreement with at least five other persons who were managed or supervised or organized by this defendant, and that from this continuing series of narcotic violations the defendant received substantial income.

Section 848(A) of Title 21 of the United States Code provides, in part, that any person who engages in a continuing criminal enterprise shall be guilty of an offense. 842(C) provides that a person is engaged in a continuing criminal enterprise if, one, he violates any provision of this subchapter or subchapter II of this chapter, the punishment for which is a felony, and such violation is a part of a continuing series of violations of this subchapter

or subchapter II of this chapter, all of which refer to narcotics violations, and which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position as organizer, a supervisory position, or any other position of management and from which such person obtains substantial income or resources.

[2293] In order to sustain its burden of proof for the crime of operating a continuing criminal enterprise as charged in count 8 of the indictment, the Government must prove the following five essential elements beyond a reasonable doubt:

One, defendant committed a felony violation of the federal narcotics laws;

Two, such violation was part of a continuing series of related violations of the federal narcotics laws;

Three, the continuing series of violations was undertaken by defendant Robertson in association or concert with five or more other persons;

Fourth, defendant Robertson was the organizer of these five or more other persons or occupied a management or supervisory position with respect to these five or more other persons; and

Five, defendant Robertson obtained substantial income or resources from the continuing series of narcotics violations.

The phrase "felony violation of the federal narcotics laws" as used in these instructions means the commission of any act specifically prohibited by certain sections of the United States Code for which the defendant could be imprisoned for more than one year.

The possession of cocaine with the intent to [2294] distribute and the distribution of cocaine, and the conspiracy to do so, are all felony violations of the narcotics laws.

The phrase "in concert with five or more other persons" means some type of agreement or joint action, whether

direct or indirect, with at least five other persons who were involved in a continuing series of narcotic violations.

The phrase "in concert with five or more other persons" does not require proof from the Government that the five or more other persons actually had contact with each other or knew each other or committed each violation together or operated together continuously at the same time. The Government is not required to prove that the defendant managed supervised, or organized these five or more persons at the same time.

The Government must prove beyond a reasonable doubt, however, that the defendant and at least five or more other persons were part of an agreement or joint action to commit the continuing series of violations of the federal narcotics laws alleged in count 8 of the indictment.

The term "organizer" and the terms "supervisory position" and "position of management" are to be given their usual and ordinary meanings. These words imply the exercise of power or authority by a person who occupies some position [2295] of management or supervision. This person need not be the sole or only organizer, supervisor, or manager of the activities or persons in question.

In order to find that the defendant was an organizer or one who occupied a supervisory position or other position of management, the Government must prove beyond a reasonable doubt that the defendant exercised some degree of responsibility and control over each of the five persons he is charged with having organized, managed or supervised. This person need not be the sole or only organizer, supervisor, or manager of the activities or persons in question. However, those persons who he organized, managed or supervised cannot include those who were merely his suppliers. Furthermore, you jurors must unanimously agree as to the identity of each of the five persons the defendant organized, managed or supervised.

The phrase "obtained substantial income or resources" should also be given its usual and ordinary meaning. The statute requires proof that the income or resources obtained from the activity must be significant, not trivial. It is not limited to profit but includes gross income or gross receipts. Substantial income or resources may include property or money and other things of value, such as controlled substances, which are actually received by the defendant.

[2296] The defendant is not on trial for any act or conduct not alleged in the indictment.

You are to determine only the guilt or innocence of the defendant. You are not called upon to determine the guilt or innocence of any other person.

As you have noted, a separate crime is charged in each count of the indictment. Each offense and the evidence applying to it should be considered separately. The fact that you may find the defendant guilty or not guilty as to one of the offenses charged should not control your verdict as to any other offense charged.

Punishment is a matter exclusively within the province of the court and should not be considered by you.

There is nothing peculiarly different in the way a jury is to consider the proof in a criminal case from that in which all reasonable persons treat any question arising in the most important of their own affairs, depending upon evidence presented to them.

You are expected to use your good senses, consider the evidence for only those purposes for which it has been admitted and give it a reasonable and fair consideration in the light of your common knowledge of the natural tendencies and inclinations of human beings.

If the accused be proven guilty beyond a reasonable doubt, say so. If not proved guilty beyond a reasonable [2297] doubt, say so.

The verdict must represent the considered judgment of each juror. In other words, it must be unanimous.

It is your duty to consult with one another with a view of reaching a verdict in this case, if you can do so without violence to your individual judgment.

In the course of your deliberations, don't hesitate to re-examine your own views and change your opinion if convinced that it is wrong. However you should not be influenced to decide any question in a particular way because a majority of the jurors, or any of them, favor such a decision.

Remember at all times that you are not partisans. You are judges, the judges of the facts.

Your sole interest is to seek the truth from the evidence in the case. When you have determined the truth, justice will be done, regardless of whether the verdict be guilty or not guilty.

Upon retiring to the jury room, you will select one of your number to act as your foreperson, who will preside over your deliberations and be your spokesperson in court.

A form of verdict has been prepared for your convenience. You will take this form to the jury room and when you've reached a unanimous agreement as to your verdict, you will have your foreperson fill in, date and sign the form [2298] to state the verdict upon which you have unanimously agreed, and then return with it to the courtroom.

Counsel approach the bench, please.

(Bench conference)

THE COURT: Exceptions.

MR. WARREN: Your Honor, I don't believe the Court instructed on accomplice testimony. The Court did instruct on informant testimony. I would request that the Court give Devitt & Blackmar 17.06 which talks about accomplices.

THE COURT: I think I instructed on people who plead guilty to the same series of acts which, in effect, are accomplices. I think that covered it.

MR. WARREN: I don't think the Court gave an instruction that the jury must unanimously agree on the two predicate acts which constitute RICO.

THE COURT: I may not have.

MR. WARREN: That's all.

THE COURT: All right.

(End of bench conference)

THE COURT: Perhaps I missed one thing ladies and gentlemen. As far as count 6 is concerned on the racketeering charge, you each must unanimously agree upon the predicate acts if you find him guilty of that. You must unanimously agree upon which predicate act you find him guilty of.

[2299] All right. Now I have to say, Mrs. Wright and Mr. Stewart and Mr. Chien, I am going to excuse you now. I'm amazed that we have been able to get through all of this time, these four weeks, without anybody but Mrs. Anderson getting sick or having an accident or something. I thank you. You've been just as important to the case as if you were one of the 12 having now to go back really to work, because we couldn't carry on the case unless it was—people like you would be willing to come with us and stay with us for this length of time.

I thank you on behalf of all two and a half million of us here in the Southern District of California. You leave your tag by your chair and you are excused.

The rest of you now—

A JUROR: Your Honor, may we take these with us?

THE COURT: You may take it with you, if you wish.

A JUROR: Thank you.

THE COURT: The rest of you now, you can go back to the jury room and begin your deliberations. And now, my admonitions that I have been giving you for this long time are off. Now you have a duty to talk to each other about the case and form and express your opinions,

and I am going to send in at this time the cocaine for you to look at, not to use, for you to look at for whatever length of time you want to. Then it's going to be brought back out and given to the [2300] D.E.A. to put away. So you may now retire and begin your deliberations.

Swear the bailiff.

DEPUTY CLERK: I did.

(Jury excused to deliberate at 3:55 p.m.)

* * * *

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUDGMENT INCLUDING SENTENCE UNDER THE SENTENCING REFORM ACT

Criminal Case No. 90-0925-N

UNITED STATES OF AMERICA

vs.

JUAN PAUL ROBERTSON

X The defendant was found guilty on count(s) one through four and six of the superseding indictment after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Count
21 USC 846, 841(a)(1)	Conspiracy to Possess a Controlled with Intent to Distribute	Number(s)
21 USC 841(a)(1), 18 USC 2	Possession of a Controlled Substance with Intent to Distribute	1
18 USC 1962(a)	Racketeering Influenced Corrupt Organization	2-4
		6

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

X The defendant has been found not guilty on count(s) 5 and 8 and is discharged as to such count(s).

X The underlying indictment (is) (are) dismissed on the motion of the United States.

X It is ordered that the defendant shall pay to the United States a special assessment of $250.00 which shall be due immediately.

X It is determined that the defendant is unable to pay a fine.

It is further ordered that the defendant shall notify the United States Attorney for this district within thirty days of any change of residence or mailing address until all fines, restitution, costs and special assessments imposed by this Judgment are fully paid.

Defendant's Soc. Sec. Number:

None available

Defendant's Mailing Address:

None available

Defendant's Counsel:

Glenn Warren
2442 Fourth Ave.
San Diego, CA 92101

June 1, 1992
Date of Imposition of Sentence

/s/ Leland C. Nielsen
LELAND C. NIELSEN
Senior United States District Judge
Filed: June 1, 1992
DON HENDRIX, Clerk

By: /s/ T. Johnson
T. JOHNSON
Deputy Clerk

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of two hundred forty (240) months as to count 1, sixty (60) months as to counts 2 & 3, thirty-six (36) months as to count 4 and two hundred forty (240) months as to count six. Counts 2 through 6 are to run concurrently to each other and to count for a total of 240 months.

X The Court makes the following recommendations to the Bureau of Prisons:

* * * *

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be supervised release for a term of five (5) years as to counts one through four and three (3) years as to count six. Counts two through six are to run concurrently to each other and to count one.

While on supervised release, the defendant shall not commit another federal, state or local crime and shall comply with the standard conditions that have been adopted by this Court (set forth on the following page). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

X The defendant shall not possess any firearms or other dangerous weapons.

X The defendant shall submit to search of person, property, residence, or vehicle conducted in a reasonable manner and at a reasonable time by the Probation Officer.

X The defendant shall participate in a program of drug or alcohol abuse treatment including urinalysis testing and counseling as directed by the Probation Department.

X The defendant shall provide complete disclosure of personal and business financial records to the Probation Officer as requested.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation or supervised release pursuant to this judgment:

1) The defendant shall not commit another federal, state or local crime;

2) The defendant shall not leave the judicial district without the permission of the court or probation officer;

3) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;

4) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

5) The defendant shall support his or her dependents and meet other family responsibilities;

6) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;

7) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment;

8) The defendant shall refrain from excessive use of alcohol and shall not purchase, use, distribute, or administer any narcotic or controlled substance, or

any paraphernalia related to such substances, except as prescribed by a physician;

9) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

10) The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;

11) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;

12) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

13) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

14) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

These conditions are in addition to any other conditions imposed by this Judgement.

SUPREME COURT OF THE UNITED STATES

No. 94-251

UNITED STATES, PETITIONER

v.

JUAN PAUL ROBERTSON

[Filed October 17, 1994]

ORDER ALLOWING CERTIORARI

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted.

October 17, 1994

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